

Chapter 30 LICENSES, TAXATION AND MISCELLANEOUS REGULATIONS

ARTICLE I. IN GENERAL

Sec. 30-1. Franchise fee on holders of state franchises for providing cable and video services.

(a) *Definitions.*

Cable service means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service shall not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. section 332(d) or video programming provided as part of and via a service that enable users to access content, information, e-mail, or other services offered over the public Internet.

Cable service provider means any person or group of persons:

- (1) Who provides cable service over a cable system and directly or through one of more affiliates owns a significant interest in such cable system; or
- (2) Who otherwise controls or is responsible, through any arrangement, for the management and operation of such a cable system.

Gross revenues means all revenues received from subscribers for the provision of cable service or video service, including franchise fees for cable service providers and video service providers, and advertising and home shopping services revenues and shall be determined in accordance with generally accepted accounting principles. Gross revenues shall not include:

- (1) Amounts billed and collected as a line item on the subscriber's bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided or measured by the charges, receipts, or payments therefor; provided, however, that for purposes of this Code section, such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services;
- (2) Any revenue, such as bad debt, not actually received, even if billed;
- (3) Any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide cable service or video programming;
- (4) Any amounts attributable to refunds, rebates, or discounts;
- (5) Any revenue from services provided over the network that are associated with or classified as noncable or nonvideo services under federal law, including, without limitation, revenues received from telecommunications services, information services other than cable service or video service, Internet access services, or directory or Internet advertising revenue, including, without limitation, yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such noncable or nonvideo service is bundled with the sale of one or more cable services or video services and sold for a single nonitemized price, the term "gross revenues" shall include only those revenues that are attributable to cable service or video service based on the provider's books and

records; such revenues shall be allocated in a manner consistent with generally accepted accounting principles;

- (6) Any revenue from late fees not initially booked as revenues, returned check fees, or interest;
- (7) Any revenue from sales or rental of property, except such property as the subscriber shall be required to buy or rent exclusively from the cable service provider or video service provider to receive cable service or video service;
- (8) Any revenue received from providing or maintaining inside wiring;
- (9) Any revenue from sales for resale with respect to which the purchaser shall be required to pay a franchise fee, provided the purchaser certifies in writing that it shall resell the service and pay a franchise fee with respect thereto; or
- (10) Any amounts attributable to a reimbursement of costs including, but not limited to, the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.

Service area means the geographic territory within the unincorporated area of Dawson County, Georgia, where a cable service provider or video service provider provides or has proposed to offer cable service or video service pursuant to a franchise.

Video service means the provision of video programming through wireline facilities located at last in part in the public rights of way without regard to delivery technology, including Internet protocol technology. This term shall not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. 332(d) or video programming provided as part of and via a service that enables users to access content, information, e-mail or other services offered over the public internet.

Video service provider means an entity providing video service as defined in this Code section. This term shall not include a cable service provider.

(b) *Franchise fee imposed.*

- (1) The holder of a state franchise as a cable service provider or a video service provider that operates within the unincorporated areas of Dawson County, Georgia, shall pay to Dawson County a franchise fee of five percent of gross revenues received from the provision of cable service or video service within such entity's service area. Such franchise fee shall be paid directly to Dawson County within 30 days after the last day of each calendar quarter. Such payment shall be considered complete if the payment is accompanied by a statement showing, for the quarter covered by the payment, the following information:
 - a. The aggregate amount of the state franchise holder's gross revenues, specifically identifying subscriber and advertising and home shopping services revenues under this chapter insofar as the franchise holder's existing billing systems include such capability, attributable to the unincorporated area of Dawson County; and
 - b. The amount of the franchise fee payment due to Dawson County.
- (2) If the franchise fees are not paid on or before the dates set forth herein, then Dawson County shall provide written notice to the franchise holder that such fees have not been paid and shall notify the cable service provider or video service provider that such entity shall have 15 days from the date that the franchise holder receives such notice to cure any such nonpayment. If the franchise fees are not remitted to Dawson County, postmarked on or before the expiration of the 15-day cure period, then the holder of the state franchise shall pay interest thereon at a rate of one percent per month. If the 15-day cure period expires on Saturday, Sunday or a legal holiday, then the due date shall be the next

business day. The franchise holder shall not be assessed interest on late payments if franchise payments are or have been submitted in error to a neighboring local governing authority.

(c) *Audits permitted.*

- (1) Dawson County may, no more than once annually, audit the business records of the state franchise holder to the extent necessary to ensure payment of the franchise fee to Dawson County. For purposes of this subsection, an audit shall be defined as a comprehensive review of the records of the holder of a state franchise. Once any audited period of a state franchise holder has been the subject of a requested audit, such audited period of such state franchise holder shall not again be the subject of any audit. In the event of a dispute concerning the amount of the franchise fee due to the county under this Code section, an action may be brought in a court of competent jurisdiction by the county seeking to recover an additional amount alleged to be due or by a state franchise holder seeking a refund of an alleged overpayment; provided, however, that any such action shall be brought within three years following the end of the quarter to which the disputed amount relates. Such time period may be extended by written agreement between the state issued franchise holder and such affected local governing authority. Each party shall bear the party's own costs incurred in connection with any such examination or dispute. In the event that the county files an action to recover alleged underpayments of franchise fees and a court of competent jurisdiction determines the cable service provider or video service provider has underpaid franchise fees due for any 12 month period by ten percent or more, the cable service provider or video service provider may be required to pay the county its reasonable costs associated with the audit along with any franchise fee underpayments; provided, however, late payments shall not apply.
- (2) The financial records disclosed during an audit shall not be subject to public inspection. The statements made pursuant to this section and any records or information furnished or disclosed by a cable service provider or video service provider to the county pursuant to an audit shall be exempt from public inspection under O.C.G.A. § 50-18-70 et seq.

(d) *Payments.* The acceptance of any payment shall not be construed as a release or as an accord and satisfaction of any claim that Dawson County may have for further or additional sums payable as a franchise fee. Any amount overpaid by the holder of the state franchise shall be deducted from future franchise payments.

(e) *Effective date.* The effective date of the resolution from which this section is derived shall be January 2, 2008.

(f) *Franchise may recover franchise fee.* The holder of a state franchise may designate that portion of a subscriber's bill attributable to any franchise fee imposed pursuant to the terms hereof as a separate item on the bill and may recover such amount from the subscriber; however, any such separate listing shall be referenced as a "franchise" or a "franchise fee."

(g) *Other laws.* Any resolution or law which may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be literally construed to be in favor of Dawson County is hereby adopted as a part hereof.

(Res. of 12-6-2007, §§ I—VII, IX)

State law reference(s)—Consumer Choice for Television Act, O.C.G.A. § 36-76-1 et seq.

Sec. 30-2. Interest on unpaid taxes.

- (a) *Taxes due December 1.* All taxes collectible by the Dawson County Tax Commissioner shall be due and payable no later than December 1 beginning in year 2007. After December 1, interest shall accrue according to law.

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- (b) *Request to tax commissioner.* The Board of Commissioners of Dawson County respectfully request that the Dawson County Tax Commissioner comply with the terms hereof in accord with O.C.G.A. § 48-5-150.
 - (c) *Other laws.* Any resolution or ordinance that may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be liberally construed in favor of Dawson County, is hereby adopted as a part hereof.

(Res. of 12-21-2006, §§ 1, 2, 4)

Sec. 30-3. Penalties on unpaid taxes.

- (a) The Board of Commissioners of Dawson County hereby delegates the authority to the Tax Commissioner of Dawson County to make the final determination on a case-by-case basis regarding whether or not to waive or assess penalties on ad valorem taxes in accord with O.C.G.A. § 48-5-242(a) and (c) and in accord with sound business guidelines.
- (b) Any resolution or ordinance that may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be liberally construed in favor of Dawson County, is hereby adopted as a part hereof.

(Res. of 1-22-2009(2))

State law reference(s)—Authority to so provide, O.C.G.A. § 48-5-242.

Sec. 30-4. Judicial in rem tax foreclosures for delinquent taxes.

- (a) *Authorization.* The Board of Commissioners of Dawson County hereby adopts this section authorizing the use of judicial in rem tax foreclosures for delinquent taxes in accord with O.C.G.A. title 48, ch. 4, art. 5 (O.C.G.A. § 48-5-220 et seq.).
 - (1) *Criteria.* The criteria for selection of properties to be subject to the provisions of this section are as follows: the ad valorem tax due is \$25,000.00 or more.
 - (2) The Board of Commissioners of Dawson County hereby ratifies and affirms the filing of any petition before the date of the resolution from which this section is derived that otherwise meets the criteria set forth herein.
- (b) *Proceedings in rem.* The proceedings in accord with this section and O.C.G.A. title 48, ch. 4, art. 5 (O.C.G.A. § 48-4-75 et seq.) are designed solely to enforce the lien for ad valorem taxes against the property subject to such taxation and shall not constitute an action for personal liability for such taxes of the owner or owners of such property.
- (c) *Definitions.* The terms set forth in O.C.G.A. § 48-4-77 shall be defined as set forth therein.
- (d) *Filing a petition for tax foreclosure; form of petition; notice.* The judicial in rem tax foreclosure shall be commenced by the Tax Commissioner of Dawson County by filing a petition in the Superior Court of Dawson County and proceeding in accord with O.C.G.A. § 48-4-78 et seq., except that the discretion granted to tax commissioners to identify those properties on which to commence a tax foreclosure in accord with O.C.G.A. title 48, ch. 4, art. 5 (O.C.G.A. § 48-4-75 et seq.) and this resolution shall be exercised upon the following criteria: the ad valorem tax due is \$25,000.00 or more.
- (e) *Other laws.* Any resolution or ordinance that may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be liberally construed in favor of Dawson County, is hereby adopted as a part hereof.

(Res. of 7-10-2008, §§ I—IV, VI)

Sec. 30-5. Tax refunds based on obvious clerical errors.

- (a) Based on the authority granted to the board of commissioners under O.C.G.A. § 48-5-380(e), the board of commissioners hereby delegates the administration of O.C.G.A. § 48-5-380 to the Tax Commissioner of Dawson County, Georgia.
- (b) Authority of tax commissioner.
 - (1) The Tax Commissioner of Dawson County, Georgia, shall have the authority to approve or disapprove claims for refund of taxes pursuant to the provisions of O.C.G.A. § 48-5-380 if the claim for refund is based on an obvious clerical error. In such case, the tax commissioner is authorized to make the refund or disapprove the claim without submitting the claim to the board of commissioners. However, the tax commissioner shall not be authorized to approve a claim of refund that is barred by the applicable statute of limitations.
 - (2) The tax commissioner shall report any refund over \$10,000.00 to the board of commissioners and shall submit a report regarding all refunds annually beginning in December of 2009.
- (c) In each case of a claim of refund for taxes if no obvious clerical error exists, then the tax commissioner shall refer such claim to the Board of Commissioners of Dawson County for approval or disapproval.
- (d) This section shall become effective on the date of its adoption by the board of commissioners.
- (e) Other laws. Any resolution or ordinance that may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be liberally construed in favor of Dawson County, is hereby adopted as a part hereof.

(Res. of 1-22-2009, §§ I—IV, VI)

Secs. 30-6—30-28. Reserved.

ARTICLE II. LICENSE FEES, OCCUPATION TAXES AND MISCELLANEOUS BUSINESS REGULATIONS

DIVISION 1. GENERALLY

Sec. 30-29. Licensing of businesses and the levy and assessment of occupational fees governed by state law.

This article will allow for the licensing of businesses, the levying, assessment, and collection of license fees and occupational taxes in accordance with O.C.G.A. § 48-13-15 et seq.

(Ord. of 11-19-2009, art. I)

Secs. 30-30—30-46. Reserved.

DIVISION 2. BUSINESS OCCUPATION TAX¹

Sec. 30-47. Payment of tax required; applicability; display of license.

For each calendar year any person or corporation engaged in or commencing any business, trade, profession or occupation in the unincorporated area of Dawson County, Georgia, or in the case of an out of state business with no location in Georgia pursuant to O.C.G.A. § 48-13-7, shall pay a license fee or occupation tax for said business, trade, profession or occupation. Business licenses issued shall have an expiration date one year from the date of issuance of the license. Any applicable business license shall be displayed in a conspicuous place in the place of business if the taxpayer has a permanent business location in Dawson County. If the taxpayer has no permanent business location in Dawson County, Georgia, then such business registration shall be shown to the license inspector, Sheriff of Dawson County, Georgia, (or any of his deputies), or to the Dawson County Marshal's Office or designee, upon request.

(Ord. of 11-19-2009, § 2.01)

Sec. 30-48. Definitions.

- (a) Dawson County, Georgia, as used herein shall be construed to mean the unincorporated area of Dawson County, Georgia; wherever the term "county" is used herein, it shall be construed to mean the unincorporated area of Dawson County, Georgia.
- (b) As used herein the following terms shall apply:
 - (1) *Administrative fee* means a component of an occupational tax that approximates the reasonable cost of handling and processing the occupation tax.
 - (2) *Board of commissioners* means a component of an occupational tax that approximates the reasonable cost of handling and processing the occupation tax."
 - (3) *Business* means any person or entity in Dawson County that engages in, causes to be engaged in or represents to be engaged in any occupation or activity with the object of gain, benefit, or advantage, either directly or indirectly and includes any person or entity advertising by any means including, but not limited to, signs, cards, circulars, and newspapers.
 - (4) *Business license* means the certificate issued upon payment of the administrative fee, payment of the regulatory fee, if any, and the payment of the occupation tax. Only one business license certificate shall be issued, which shall demonstrate that the fees and tax have been paid.
 - (5) *Dominant line* means the type of business within a multiple line business that the greatest amount of income is derived from.
 - (6) *Employee*.
 - a. Any individual, owner, family member or relative who works 40 hours per week and whose work is performed under the direction and supervision of the employer who withholds FICA, federal

¹State law reference(s)—Local occupation taxes, O.C.G.A. § 48-13-5 et seq.

income tax or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form IRS W-2, but not a form IRS 1099, shall be counted as an employee. Computation of employees who work less than 40 hours to produce full time equivalents is set out in section 30-51(b). For purposes of this article, each business will have a minimum of one employee.

- b. An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form IRS W-2.
- (7) *Engaged in business or carrying on business* means doing or performing any act of selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer, or renting real or personal property for less than ten consecutive days; all of the foregoing performed either as an owner, operator or agent of any business, trade, profession, or occupation within Dawson County.
- (8) *Flea markets*, as used herein, shall mean a retail sales operation wherein one or more spaces are made available from which goods or wares are sold.
- (9) *Licensee* means the person issued the license, his authorized employee in charge of the business of the licensee, or the person operating the business of the licensee.
- (10) *Location or office* shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site that serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation that has a location or office. The renter's or lessee's location that is the site of personal property rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property that is rented or leased to another does not constitute a location or office for the real property's owner, lessor or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.
- (11) *Nonprofit organization* means a corporation, club or group exempt from income taxation under the Internal Revenue Code and regulations thereunder as now existing or as hereafter amended and regulations promulgated by the Secretary of State of Georgia, now existing or as hereafter amended.
- (12) *Occupation tax* means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business for revenue raising purposes.
- (13) *Person*, wherever used in this division, shall be held to include sole proprietors, corporations, partnerships or any other form of business organization.
- (14) *Practitioner of a profession or occupation* is one who by state law requires state licensure regulating such profession or occupation.
- (15) *Practitioners of professions and occupations* shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.
- (16) *Registration, business registration, and business tax registration* are all synonymous with "business license" and shall mean the certificate issued upon payment of the administrative fee, the regulatory fee, if any, and the occupation tax, if applicable. Only one business license certificate shall be issued, which shall demonstrate that the fees and tax have been paid.

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- (17) *Regulatory fees* means payments, whether designated as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the county. A regulatory fee may not include an administrative fee or a registration fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.
- (18) *Yard sale* means sales of used household belongings by an individual at his principal residence or by a group of individuals combining such items for a group yard sale at one of their principal residences. Such sales may be held no more than four times in a calendar year, with each individual sale lasting no more than three consecutive days, and shall be exempt from the fee requirements of this article. All merchandise must be the property of the person(s) holding the sale and not be purchased for the purpose of resale. The term also includes garage sales, basement sales, or other similar usage. All other sales of merchandise are considered retail sales, and subject to the provisions of this article.

(Ord. of 11-19-2009, § 2.02)

Sec. 30-49. Purpose and scope of occupation tax.

- (a) The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the occupation tax made a condition precedent to the practice of any profession that is classified in O.C.G.A. § 48-13-9(c)(1)–(18).
- (b) The occupation tax applies to those businesses and occupations that are covered by the provisions of O.C.G.A. §§ 48-13-5–48-13-26.
- (c) All other applicable businesses and occupations are taxed by the local government pursuant to general and/or local law and ordinances of Dawson County.

(Ord. of 11-19-2009, § 2.03)

Sec. 30-50. Administrative fee and regulatory fee structure.

- (a) A non-prorated, non-refundable administrative fee as set forth by the Dawson County Planning and Development Fee Schedule shall be required on all business occupation tax accounts for the initial start-up, renewal or reopening of those accounts.
- (b) A regulatory fee shall only be imposed as provided under O.C.G.A. § 48-13-9 on those businesses that require an application on an annual basis and on those businesses that require an application for the initial business license for the purpose of regulating the business in reference to character checks or other verification that is necessary to legally permit operation of that business for the current licensing year. A regulatory fee may not include an administrative fee.
- (1) Classifying businesses and practitioners of professions and occupations according to whether such businesses and practitioners have a location within the unincorporated area of Dawson County and imposing and collecting different regulatory fees on the basis of such a classification is prohibited.
- (2) The regulatory fee is not a general revenue producing component of the license fee structure and is the approximate actual reasonable cost of the regulatory activity performed.
- (c) Regulatory fees authorized by this article shall be paid before commencing business or the practice of a profession as a condition precedent for transacting business or practicing a profession.

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- (d) Regulatory fees may be paid after commencing business or the practice of a profession when:
- (1) The work done or services provided are necessary for the health or safety of one or more individuals;
 - (2) The work done or services provided have no adverse affect on any other person; and
 - (3) Regulatory fees are tendered to the local government within two business days after commencing business or practice of a profession.
- (e) Regulatory fees and administrative fees may not be pro-rated on businesses that close, dissolve, sell or relocate outside unincorporated Dawson County, or otherwise cease to operate in unincorporated Dawson County before the expiration of the license each calendar year.
- (f) Any and all regulatory and/or administrative fees paid shall be nonrefundable.
- (Ord. of 11-19-2009, § 2.04; Ord. of 9-19-2019, § 2(Exh. B))

State law reference(s)—Administrative fee authorized, O.C.G.A. § 48-13-10; regulatory fees, O.C.G.A. § 48-13-9.

Sec. 30-51. Occupation tax levied; amount.

- (a) An occupation tax is levied upon those businesses and practitioners of professions and occupations with one or more locations or offices within unincorporated areas of Dawson County, Georgia, and upon applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria. The tax shall be levied on the number of employees of the business or practitioner.
- (b) The occupation tax shall be determined according to the number of employees of the business or practitioner as computed on a full-time position basis or full-time position equivalent basis. An employee who works 40 hours or more weekly shall be considered a full-time employee. The average weekly hours of employees who work less than 40 hours weekly shall be added and such sum shall be divided by 40 to produce full-time position equivalents. The occupation tax shall be levied as set forth by the Dawson County Planning and Development Fee Schedule. This fee schedule includes a non-refundable administrative fee required for the initial start-up, renewal or reopening of those accounts as shown on the adopted Dawson County Planning and Development Fee Schedule.

(Ord. of 11-19-2009, § 2.05; Ord. of 9-19-2019, § 2(Exh. B))

State law reference(s)—Levy of occupation tax authorized, O.C.G.A. § 48-13-6 et seq.

Sec. 30-52. Occupation tax restrictions; transfer of business license.

- (a) Dawson County shall not require an additional occupational tax on those businesses that have paid the occupation tax in other localities or states on the business' or practitioner's sales or services in Georgia, if those businesses or practitioners were taxed in compliance with O.C.G.A. §§ 48-13-7 and 48-13-14 and show proof of payment of the occupation tax.
- (b) Dawson County shall not require an occupation tax from those real estate brokers, agents or companies whose offices are located outside the unincorporated areas of Dawson County, Georgia, and sell property inside the unincorporated areas of Dawson County, Georgia.
- (c) The business license shall not be transferable to another person, firm or corporation in the same location. The business license may be transferred from one location to another if the ownership of the business remains the same.

(Ord. of 11-19-2009, § 2.06)

Sec. 30-53. Payment of occupation tax by businesses with no location in state.

If not exempt pursuant to O.C.G.A. § 48-13-7(f), the Board of Commissioners of Dawson County, Georgia, require registration and the assessment of an occupation tax on businesses and practitioners of professions with no location or office in the State of Georgia if the largest dollar volume of business in Georgia is done or performed in the unincorporated area of Dawson County and the business or practitioner has at least one employee or agent who exerts substantial efforts within the unincorporated area of Dawson County, Georgia, for the purpose of soliciting business or serving customers or clients.

(Ord. of 11-19-2009, § 2.07)

Sec. 30-54. Each line of business to be identified on business registration.

The business registration/business license certificate of each business operated in the county shall identify the line or lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the business license department and that line of business being noted by the business license department upon the business license certificate which is to be displayed by the business owner.

(Ord. of 11-19-2009, § 2.08)

Sec. 30-55. Each location considered separate business.

If an occupation taxpayer conducts business at more than one store or location, then each store or location shall be considered a separate business for the purpose of occupation tax; however, no more than one occupation tax shall be required for each location.

(Ord. of 11-19-2009, § 2.09)

Sec. 30-56. Occupation tax on professionals.

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)—(18) shall elect each calendar year as their entire occupation tax one of the following:

- (1) The occupation tax based on number of employees as provided in section 30-51 of this division.
- (2) A fee as set forth by the Dawson County Planning and Development Fee Schedule per practitioner who is licensed to provide the service, with such tax to be paid at the practitioner's office or location. The per practitioner fee shall include all persons in the business who qualify as a practitioner under the state's regulatory guidelines and framework.

(Ord. of 11-19-2009, § 2.10; Ord. of 9-19-2019, § 2(Exh. B))

Sec. 30-57. Home occupation.

The occupation tax or license fee for a profession or business conducted as a home occupation shall be \$75.00 regardless of any contrary provision set forth herein.

(Ord. of 11-19-2009, § 2.11)

Sec. 30-58. Exemption for practitioners exclusively practicing for government.

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, or instrumentalities of the United States shall not be required to obtain a license or pay an occupation tax for that practice.

(Ord. of 11-19-2009, § 2.12)

Sec. 30-59. Allocation of employees of business with multiple locations.

- (a) For those businesses that have multiple locations inside and outside of the county where the employees can be allocated to each location, the number of employees used to determine the occupation tax assessed will be those employees attributed to each county location. In the case of an employee who works for the same business or practitioner in more than one municipal corporation or county, the municipal corporation or county in which the employee works for the longest period of time within the calendar year shall be authorized to count the individual as an employee who is employed within the local government's geographic jurisdiction for purposes of occupation tax. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the county the following:
- (1) Payroll and personnel records necessary to allocate the number of employees of the business or practitioner; and
 - (2) Information relating to the allocation of the business's or practitioner's number of employees by other local governments.
- (b) Where the business has locations outside of the county and taxation is levied for criteria other than number of employees in the other local government's jurisdiction, the county shall not assess more than the allotted share of number of employees for the local operation.

(Ord. of 11-19-2009, § 2.13)

Sec. 30-60. Miscellaneous exemptions.

No occupation tax, regulatory fee or administrative fee shall be levied on the following:

- (1) Any state or local authority or nonprofit organization;
- (2) Veterans with a ten percent or greater disability, upon presentation of a certificate of exemption from the state director of veteran's services;
- (3) Blind persons, upon presentation of a certificate of exemption from the Judge of Probate Court of Dawson County;
- (4) Such other businesses as are exempt by federal or state statute;
- (5) Agricultural production of crops and livestock, except poultry hatcheries, forestry and fishing, and hunting and trapping;
- (6) Sale of produce, fruits and vegetables grown by the seller when the point of sale is on the property where grown;
- (7) The builder of a single home or outbuilding for his own use. This exemption does not extend to subcontractors or persons acting in a construction management capacity;
- (8) Service performed by a unit of government, but not a private contractor for a unit of government.

(Ord. of 11-19-2009, § 2.14)

Sec. 30-61. Evidence of state registration required if applicable.

Each person who is licensed under O.C.G.A. title 43 by the state license examining boards shall provide evidence of proper state licensure before the county business license may be issued.

(Ord. of 11-19-2009, § 2.15)

Sec. 30-62. Evidence of qualification required if applicable.

- (a) Any business required to obtain health permits, bonds, certificate of qualification, certificates of competency, certificate of occupancy, or any other regulatory matter shall first, before the issuance of a county business license, show evidence of such qualification.
- (b) Any business required to submit an annual application for continuance of that business shall do so before the business license is issued.

(Ord. of 11-19-2009, § 2.16)

Sec. 30-63. Liability of officers and agents; registration required; failure to obtain registration.

All persons subject to the occupation taxes provided in this article shall obtain the necessary registration for the business prescribed in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a business license. Every person commencing business in Dawson County after January 1 of each year shall likewise register before commencing business activities; and any person transacting or offering to transact in the county any of the kinds of business, trade, profession or occupation subject to this article without first having obtained registration shall be subject to the provisions of section 30-65 of this article.

(Ord. of 11-19-2009, § 2.17)

Sec. 30-64. Delinquent fees or tax; effect of transacting business when tax delinquent.

- (a) Each registration shall be valid for one calendar year from the date the original registration was obtained unless otherwise specifically provided. If any fees or occupation tax due under this article remain due and unpaid for 90 days from the due date, then the person liable for the fees or tax shall be subject to and shall pay a penalty of ten percent of the fees or tax due. Interest on delinquent fees and tax shall be assessed at 1.5 percent for each month or fraction thereof of delinquency. The penalty and interest shall be in addition to all other penalties, civil and criminal, herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, the administrative fee and the regulatory fee and shall have the same lien and priority as the occupation tax to which the penalty is applied. On renewal registrations, applicable penalties and interest fees shall be collected based on the annual due date from original registration.
- (b) The business license herein provided for shall be issued by the Dawson County Manager or designee, and, if any person, firm or corporation whose duty it is to obtain a business license shall, after said occupation tax becomes delinquent, transact or offer to transact, in the county, any of the kind of business, trade, profession or occupation subject to this article, without having first obtained said business license, shall be subject to section 30-65.

(Ord. of 11-19-2009, § 2.18)

State law reference(s)—Failure to pay tax on time, O.C.G.A. § 48-13-20.

Sec. 30-65. Violation of article; penalty.

- (a) In addition to other remedies available to the county for the collection of special taxes, occupation taxes and regulatory fees due the county from persons subject to the tax or fee who fail or refuse to pay the tax or fee, the officer charged with the collection of the tax or fee shall issue executions against the delinquent taxpayers for any or all of the following:
 - (1) The amount of the taxes or fees due when the taxes or fees become due.
 - (2) Any penalty imposed by section 30-64(a).
 - (3) Any interest imposed by section 30-64(a).
- (b) The Dawson County Magistrate Court may impose a civil fine for failure to pay the occupation tax or regulatory fee. Such civil fine shall not exceed \$500.00 and may be enforced by the contempt power of the court.
- (c) In addition to the above remedies, the Dawson County Sheriff may collect such fee or tax in the same manner as provided by law for tax executions.

(Ord. of 11-19-2009, § 2.19)

State law reference(s)—Penalties for ordinance violations, O.C.G.A. § 36-1-20.

Sec. 30-66. Businesses not covered by article.

The following businesses are not covered by the provisions of this division, but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by act of local law:

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under O.C.G.A. title 46, ch. 3 (O.C.G.A. § 46-3-1 et seq.).
- (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.

(Ord. of 11-19-2009, § 2.20)

Sec. 30-67. Occupation tax inapplicable where levy prohibited or exempted by law.

This occupation tax is not levied upon the number of employees of any part of a business if such levy is prohibited or exempted by the laws of Georgia or of the United States.

(Ord. of 11-19-2009, § 2.21)

Sec. 30-68. Date when occupation tax due and payable.

The amount of occupation tax shall be due and payable to the county at the business license office of the county one calendar year from the date of original registration and shall be delinquent if not paid within 90 days

from the due date. If any person commences business on any date after January 1, in any year, then the tax shall be due and payable within 30 days of the date of the commencement of the business.

(Ord. of 11-19-2009, § 2.22)

State law reference(s)—Due date of occupation tax, O.C.G.A. § 48-13-20.

Sec. 30-69. Inspection of books and records.

In any case, the county manager, through his officers, agents, employees or representatives, may inspect the books of the business upon which the applications are made. The county manager or his designee shall have the right to inspect the books or records of the business for which the application was made in the county and upon demand of the county manager or his designee such books or records shall be submitted for inspection by a representative of the county within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the business license currently existing to do business in the county. Adequate records shall be kept in Dawson County, Georgia, for examination by the county manager or his designee at his discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of under reporting, a penalty of ten percent of the deficiency and an additional one percent of the deficiency for each month or fraction thereof that the deficiency was due and unpaid shall be assessed.

(Ord. of 11-19-2009, § 2.23)

Sec. 30-70. Revocation of business license for failure to pay tax, file returns, or permit inspection of books.

Except for a person whose qualifications to practice his or her profession are determined by the general laws of the State of Georgia, the failure of any business to pay the occupation tax or any part thereof before it becomes delinquent shall result in, any business license granted by the county under this article being revoked. No new business license shall be granted by the county for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid or to a person who has failed to submit adequate records as requested.

(Ord. of 11-19-2009, § 2.24)

Sec. 30-71. Effect of noncompliance; continuing in business after business license revocation.

Any person, or their manager, agent or employee, who does business in the county after the business license for said business has been revoked as herein provided; any person, or their manager, agent or employee, who is hereby required to make returns showing the number of employees and who fails to make said returns within the time and in the manner herein provided, or refuses to amend such returns so as to set forth the correct information, or who shall make false returns; and any person, or their manager, agent or employee, who refuses to permit an inspection of books in their charge when the officer(s), agent(s), employee(s) or representative(s) of the county request such inspection, during normal business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to the penalties provided in section 30-64 of this division.

(Ord. of 11-19-2009, § 2.25)

Sec. 30-72. Execution for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the tax commissioner of Dawson County, upon any tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the person liable for said tax, which execution shall bear interest at the rate of one percent per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property of the person liable for said tax, all as provided by the resolutions of Dawson County, Georgia, and the laws of Georgia. The lien of said occupation tax shall become fixed on and dated from the time when such tax becomes delinquent. The execution shall be levied by the Sheriff of Dawson County upon the property of the person liable for said tax, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by the resolutions of Dawson County and the laws of Georgia, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the resolutions of Dawson County and the laws of Georgia in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the tax commissioner of Dawson County, Georgia, against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest, penalties and costs accrued on the tax, the person may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

(Ord. of 11-19-2009, § 2.26)

Sec. 30-73. Amendments.

Subject to the provisions of section 30-76, this article shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the board of commissioners to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the county of additional occupation taxes upon the same person, property or business.

(Ord. of 11-19-2009, § 2.27)

Sec. 30-74. Payment of tax or assessment levied under prior ordinance or resolution.

This article does not repeal or affect the force of any part of any ordinance or resolution heretofore passed where taxes levied under such prior ordinance or resolution have not been paid in full. So much and such parts of ordinances and/or resolutions heretofore and hereafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances or resolutions, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or resolution, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

(Ord. of 11-19-2009, § 2.28)

Sec. 30-75. Enforcement of division.

It is hereby made the duty of the planning and development department, the Dawson County Marshal's Office, and the Dawson County Sheriff's Office and/or their designees to enforce this article; and to summon all

violators of the same to appear before the Magistrate Court of Dawson County. It is hereby made the duty of the county manager or designee, the Dawson County Marshal's Office and/or the sheriff, and their designees and assistants, to inspect all business licenses issued by the county, as often as in their judgment deemed necessary, to determine whether the business license held is proper for the business sought to be transacted.

(Ord. of 11-19-2009, § 2.29)

Sec. 30-76. Provisions of article to remain in effect until amended by board of commissioners.

This article shall remain in full force and effect until changed by amendment adopted by the board of commissioners. All provisions hereof relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.

(Ord. of 11-19-2009, § 2.30)

Sec. 30-77. Public hearing required before adoption of tax.

The board of commissioners shall conduct at least one public hearing before adopting any resolution that will affect the occupation tax as set forth in this division.

(Ord. of 11-19-2009, § 2.31)

Sec. 30-78. Authority to establish exemption or reduction in tax.

- (a) The board of commissioners may by subsequent resolution provide for an exemption or reduction in occupation tax or a credit against occupation tax owed to by one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting, encouraging, or maintaining selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious.
- (b) Exemptions or reductions in occupation tax pursuant to subsection (a) of this section may include but shall not be limited to the following:
 - (1) Absolute dollar amount limitations on the total amount of tax, either by criterion or combination of criteria used for classification or for businesses and practitioners, provided that a jurisdiction which provides an absolute dollar amount limitation on the total amount of tax shall levy and collect such maximum tax only once on each business entity or practitioner even if a business or practitioner has more than one office or location within the jurisdiction;
 - (2) Tax credits for the retention or creation of jobs, or for jobs of a specific description, including but not limited to entry level jobs or jobs with compensation of a specified range;
 - (3) Tax credits for other taxes paid to the local government, including but not limited to ad valorem taxes;
 - (4) A tax exemption or a lower rate of taxation for sales to customers outside the jurisdiction of Dawson County;
 - (5) A credit or rebate to businesses or practitioners who paid occupation taxes in the previous year;
 - (6) A limitation on the dollar or percentage amount of increase in tax from a base year to a subsequent year, provided that the limitation is made applicable to new businesses or practitioners by imputing the number of employees of the subsequent year to the base year in calculating tax for the base year, tax for the subsequent year and the increase in tax; and

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- (7) A credit or reduction as an adjustment for seasonal fluctuations in the number of employees, other fluctuations in the number of employees, increases or decreases in the number of employees, or temporary employees.

(Ord. of 11-19-2009, § 2.32)

Sec. 30-79. Conflicts between specific and general provisions.

Where there is an apparent conflict in this division between specific and general provisions, it is the intention hereof that the specific shall control.

(Ord. of 11-19-2009, § 2.33)

Sec. 30-80. Public hearing on use of increased revenue.

In any year when revenue from occupation taxes is greater than revenue from occupation taxes for the preceding year in Dawson County, one or more public hearings shall be held by the board of commissioners of Dawson County as part of the process of determining how to use the additional revenue.

(Ord. of 11-19-2009, § 2.34)

Secs. 30-81—30-103. Reserved.

DIVISION 3. BUSINESS REGULATIONS

Sec. 30-104. General authority to impose regulatory fees.

Business regulatory fees shall be levied, assessed, collected and paid on and by those individuals, firms or corporations doing business or practicing a trade in the unincorporated area of Dawson County, Georgia, in such sums and in such categories as set forth in section 30-124 of this division. The fees and taxes imposed herein and the categories of business and trade upon which such fees and taxes are imposed may be modified or changed by subsequent resolution of the board of commissioners of the county.

(Ord. of 11-19-2009, § 3.01)

State law reference(s)—Administrative fee authorized, O.C.G.A. § 48-13-10; regulatory fees, O.C.G.A. § 48-13-9.

Sec. 30-105. Regulatory fee exemptions.

Examples of businesses and practitioners of professions and occupations which local governments are not authorized to subject to regulatory fees include, but are expressly not limited to, the following:

- (1) Lawyers;
- (2) Physicians licensed under O.C.G.A. title 43, ch. 34 (O.C.G.A. § 43-34-1 et seq.);
- (3) Osteopaths licensed under O.C.G.A. title 43, ch. 34 (O.C.G.A. § 43-34-1 et seq.);
- (4) Chiropractors;
- (5) Podiatrists;

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- (6) Dentists;
 - (7) Optometrists;
 - (8) Psychologists;
 - (9) Veterinarians;
 - (10) Landscape architects;
 - (11) Land surveyors;
 - (12) Practitioners of physiotherapy;
 - (13) Public accountants;
 - (14) Embalmers;
 - (15) Funeral director;
 - (16) Civil, mechanical, hydraulic, or electrical engineers;
 - (17) Architects;
 - (18) Marriage and family therapists, social workers, and professional counselors;
 - (19) Dealers of motor vehicles, as defined in O.C.G.A. § 10-1-622(1);
 - (20) Owners or operators of bona fide coin operated amusement machines, as defined in the O.C.G.A. § 48-17-1, and owners or operators of businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with O.C.G.A. § 48-17-9;
 - (21) Merchants or dealers as defined in the O.C.G.A. § 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
 - (22) Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments.

(Ord. of 11-19-2009, § 3.02)

Sec. 30-106. Business license transfer.

The business license shall not be transferable to another person, firm or corporation in the same location. The business license may be transferred from one business location to another provided the ownership of the business remains the same.

(Ord. of 11-19-2009, § 3.03)

Sec. 30-107. Business license application; investigation; action by county manager or designee; restrictions.

All applications for a business license shall be on forms prepared by Dawson County.

- (1) The application shall include:
 - a. The name of the business;
 - b. The location of the business;

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- c. The mailing address of the business;
 - d. The name and address of the owner of the business, and, if a corporation, the name of the person responsible for corporate affairs in unincorporated Dawson County;
 - e. The name of the manager at the business location;
 - f. The nature of the business or businesses;
 - g. The number of employees or such other information as may be required to assess the occupation tax;
 - h. Such other information as may be required to carry out the provisions of this division.
- (2) Upon completion of the application and the payment of the tax and fees, the County Manager or designee shall make such investigations and require such reports as necessary to carry out this article. Upon receipt of the necessary reports and investigations, the County Manager or designee shall either issue the business license or refer the application to the board of commissioners. If the application is referred to the board of commissioners, the applicant shall be notified in person or by certified mail, return receipt requested.
 - (3) The limited hours of operation, restrictions and other special circumstances pertaining to the operation of a business licensed by the county shall be entered directly onto the business license before the same is issued and delivered over to the business license applicant.
 - (4) Business owner must be a citizen of the United States or a legal alien. In the case of a legal alien, the owner must furnish current alien registration card or picture identification and documentation from the United States Immigration and Naturalization Service authorizing the legal alien to work in the United States.
 - (5) All business owners must be 18 years of age when applying for a business license.
 - (6) All sole proprietor business owners must show a photo ID when applying for a business license. If the ownership of the business is a partnership, a corporation or LLC, the applicant must provide evidence that the corporation is registered with the Georgia Secretary of State's office, and that the corporation is current and in compliance with the Georgia Secretary of State's office. All foreign corporations must also register with the Georgia Secretary of State's office.
 - (7) All delinquent and current state and county ad valorem taxes assessed against the business, whether such business is a proprietorship, general partnership, limited partnership, limited liability/limited partnership, limited liability company or corporation, shall be paid prior to the issuance of a business license.

(Ord. of 11-19-2009, § 3.04)

Sec. 30-108. Issuance of business license by board of commissioners.

Whenever an application is referred to the board of commissioners under section 30-109 of this division, the board of commissioners shall make such investigation and hold such hearings as it shall determine. The board of commissioners may either issue the business license, issue the business license with conditions, or deny the business license, as necessary, in the opinion of the board of commissioners, to safeguard the public health, safety and general welfare and security of the county.

(Ord. of 11-19-2009, § 3.05)

Sec. 30-109. Special requirements for licensing of certain businesses.

- (a) The power to issue a business license to a tourist camp, cabin camp, tourist house, road house, public dancehall or similar establishment as defined in O.C.G.A. §§ 43-21-50 and 31-28-1 shall be reserved specifically to the board of commissioners.
- (b) A special event business license shall be required for nonroutine business activity within the unincorporated area of Dawson County that generates or invites public participation or spectators for a particular purpose and for a limited period of time. These events have a significant impact on county services. Special events are not only those events that occur on public streets, but also those events that occur entirely on private property or off-site from the originating business. "Special event" includes the following types of events: flea markets, community yard sales, outdoor exhibitions, outdoor performances, outdoor musical festivals and other outdoor public assemblies, and agritourism events described and defined within the Land Use Ordinance of Dawson County.
- (c) The following events are exempt from the special events business license requirements: outdoor sales or displays conducted on the property of and in conjunction with existing, licensed businesses (i.e., sidewalk sales); garage or yard sales conducted by a single household on residential property; revivals; reunions; and charity events (unless the charity event involves one or more of the factors included in subsection (e), (f) or (g) of this section).
- (d) A special event business license application (obtained from the department of planning and development) shall be completed for each contemplated event and submitted to the department of planning and development along with applicable fees.
- (e) Applications for events may be granted by the county manager or designee unless any of the following conditions apply:
 - (1) A charge for admission, a ticket or a tour;
 - (2) The total square footage of temporary tent structures exceeds 1,000 square feet;
 - (3) Individually licensed food vendors shall be included in the event; adequate parking is not provided on-site to serve the total number of anticipated vehicles based upon the anticipated attendance; or
 - (4) Alcohol is served or sold during the event.

If any of these conditions apply, then the application shall be considered by the board of commissioners.

- (f) At the sole discretion of the county manager or designee, any application that may be granted by the county manager or designee may be referred by the county manager or designee to the board of commissioners for consideration if the proposed event involves:
 - (1) Any potentially dangerous or hazardous activity;
 - (2) Any national or local celebrity;
 - (3) Anticipated major media coverage; or
 - (4) Any unusual or excessive burden on the fire marshal, sheriff, county marshal or other county personnel.
- (g) Application for events involving an estimated attendance of 10,000 or more persons shall be considered by the board of commissioners. The application shall include evidence that:
 - (1) The applicant shall provide sufficient security personnel to control the public and enforce the law within the area occupied by the event;
 - (2) The applicant shall provide adequate emergency medical facilities;

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- (3) The applicant has adequate maintenance personnel to clean the area occupied by the event and the areas adjacent to the event that are littered as a result of the event;
 - (4) The public roads are adequate to handle the anticipated number of attendants;
 - (5) Adequate toilet facilities shall be provided (at least one per 100 in attendance); and
 - (6) Adequate drinking water is available.
- (h) The criteria to be considered in granting or denying a special event business license application shall be as follows:
- (1) The impact of the event on county resources (fire, sheriff, marshal, emergency medical services);
 - (2) The impact of the event on the surrounding community;
 - (3) Traffic generated by the event and access to the event;
 - (4) The zoning of the proposed event location;
 - (5) Any residential zoning of surrounding property;
 - (6) Anticipated attendance and facilities to manage the anticipated population, including parking, crowd control, water, toilet facilities, and emergency precautions; and
 - (7) The effect of the proposed event on the public health, safety and welfare.
- (i) An application that may be considered by the county manager or designee may be:
- (1) Granted by the county manager or designee with or without conditions necessary to protect the public health, safety and welfare;
 - (2) Denied by the county manager or designee. If the application is denied by the county manager or designee, then the applicant may appeal to the county manager and then to the board of commissioners; or
 - (3) Referred by the director of planning and development or designee to the county manager with a recommendation by the department of planning and development.
- (j) Applications or denials that are heard by the board of commissioners shall be considered during a public meeting of the board of commissioners. Denials by the county manager or designee may be appealed as set forth in this article.
- (k) All decisions shall be issued in writing to the applicant.
- (l) The provisions of this section shall not apply to any current licensee if the business activity of such licensee remains the same event or events as the licensee conducted before the adoption of this article.
- (m) The county manager or his or her designee may consider applications for reoccurring annual events that have previously been subjected to the above requirements in this section and received approval by the board of commissioners, provided that in order to qualify for consideration under this section, there can be no material change to the application or expansion of the impact of the event from what was initially approved by the board of commissioners, as determined in the sole good faith discretion of the county manager or his or her designee. Any decision of the county manager or his or her designee may be appealed to the board of commissioners as set forth in section 30-117 of this article.

(Ord. of 11-19-2009, § 3.06; Ord. of 11-7-2019, § 1)

Cross reference(s)—Background investigation required for operators of certain businesses, § 30-122.

Sec. 30-110. Grounds for denial of business license.

The board of commissioners may deny a business license to any business engaged in an unlawful activity or operated in such a manner as to violate lawful ordinances or resolutions adopted by the board of commissioners of the county. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and the electrical, health, building and fire codes of the county.

(Ord. of 11-19-2009, § 3.07)

Sec. 30-111. Going-out-of-business sales and similar sales.

- (a) All persons shall secure from the county a special business license pursuant to the provisions of this section before selling or offering to sell any goods at a sale advertised or held out by any means to be one of the following kinds:
 - (1) Going-out-of-business sales;
 - (2) Removal of business sales; or
 - (3) Fire and other altered stock sale.
- (b) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:
 - (1) *Fire and other altered goods sale* means a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water, or other means.
 - (2) *Going-out-of-business sale* means a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following sales: adjustors, adjustment, alteration, assignee's, bankrupt, benefit of administrator's, benefit of creditor's, benefit of trustee's, building coming down, closing, creditor's committee, creditor's end, executor's final days, forced out, forced out-of-business, insolvent's last days, lease expire, liquidation, loss of lease, mortgage sale, receiver's, trustee's quitting business and other like sales.
 - (3) *Goods* means any goods, wares, merchandise or other property capable of being the object of a sale regulated under this section.
 - (4) *Removal of business sale* means a sale held out in such manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the county or will then continue business from other existing locations in the county.
- (c) A person desiring to conduct a sale regulated by this section shall make a written application to the county, setting forth and containing the following information:
 - (1) The true name and address of the owner of the goods to be the object of the sale;
 - (2) The true name and address of the person from whom he purchased the goods to be sold, the price therefor, and, if not purchased, the manner of such acquisition;
 - (3) A description of the place where such sale is to be held;
 - (4) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy;

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- (5) The dates of the period of time in which the sale is to be conducted;
 - (6) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;
 - (7) The means to be employed in advertising such sale, together with the proposed content of any advertisement;
 - (8) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Such inventory shall be attached to and become part of the required application.
 - a. All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment.
 - b. Such inventory shall not include goods ordered in contemplation of conducting a sale regulated hereunder. Any unusual purchase or additions to the stock of goods of the business hereby affected within ten days before the filing of an application hereunder shall be deemed to be of such character.
 - (d) Any applicant for a business license under this section shall submit to the county a business regulatory fee as set forth by the Dawson County Planning and Development Fee Schedule.
 - (e) Any person who has not been the owner of the business advertised or described in the application for a business license under this section for a period of at least 12 months prior to the date of the proposed sale shall not be granted a business license except upon the approval of the county commissioners; provided that, upon the death of a person doing business in this county, his heirs, devisees or legatees shall have the right to apply at any time for a business license under this section.
 - (f) Where a person applying for a business license under this section operates more than one place of business, the business license issued shall apply only to the one store or branch specified in the application. No other store or branch shall advertise or represent that it is cooperating with it or in any way participating in the licensed sale. Nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.
 - (g) A business license issued under this section shall authorize the sale described in the application for a period of not more than three calendar months following the issuance thereof; provided that a longer period shall be designated by the county commission upon good cause shown, but not to exceed 30 additional days.
 - (h) A business license issued under this section shall authorize only the one type of sale described in the application at the location named therein.
 - (i) Any business license provided for or by this section shall not be assignable or transferable.
 - (j) Upon being issued a business license under this section for a going-out-of-business sale, the licensee shall surrender to the county all other business licenses he may hold at the time applicable to the location and goods covered by the application for a business license under this section.
 - (k) Any person who has held a sale, as regulated under this section, at the location stated in the application, within one year last past from the date of such application shall not be granted a license, except upon the approval of the county commission.
 - (l) A business license issued under this section shall authorize only the sale of goods described in the inventory attached to the application.
 - (m) A licensee under this section shall:
 - (1) *Adhere to inventory.* Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license;

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- (2) *Advertise properly.* Refrain from employing any untrue, deceptive or misleading advertising;
 - (3) *Adhere to advertising.* Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto;
 - (4) *Keep duplicate inventory.* Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request; and
 - (5) *Segregate noninventoried goods.* Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and out of the place of sale apprising the public of the status of all such goods.
- (n) It is unlawful for any person to advertise by newspapers, radio, posters or otherwise and represent that he is operating, offering or maintaining fire sales, wreck sales, bankrupt sales, closing-out or going-out-of-business sales and similar businesses, whereby the public is led to believe that it is being offered merchandise at reduced rates on account of fire, wrecks, bankruptcies, closing out or discontinuance of business, when in fact such sales are not bona fide, but are fakes and frauds, and the advertisement and representations are untrue and false.
 - (o) It is unlawful for any person to advertise by sign, posters, handbills or otherwise that he or any business entity is operating, offering or maintaining fire sales, wreck sales, bankrupt sales, closing-out or going-out-of-business sales or similar sales for more than a four-month period. In the event such advertising is continued for a period of time in excess of four-months, such shall constitute prima facie evidence of a violation of this section; provided, however, any individual or business entity having just cause or reason requiring the extension of such sales for more than the four-month period may, prior to expiration of the four-month period, petition the county commission for a continuance of time within which to complete such sales, and the county commission, in its discretion, upon a showing of good cause, may but shall not be required to grant an extension of time. The commission's decision on whether or not to grant such additional time for the advertising and the conducting of the sales shall be final.
 - (p) It is also unlawful for any person, conducting any sale, except judicial sales, whether the same is by auction or otherwise, of any goods, wares or merchandise which are claimed to be or have been in or damaged by fire, or which are claimed to be or have been sold or purchased on account of any fire, or which are or have been or which are claimed to be the property of any bankrupt person who has failed in business or has made a general assignment, or is or has been in voluntary or involuntary bankruptcy, or which are being sold or offered for sale in any other way than through the usual channels of trade, to sell or offer for sale in such sale any goods, wares or merchandise not so affected or damaged or to add to or to permit to be added to or to bring into or permit to be brought into any store, warehouse or any building in the county, for the purpose of adding to such goods, wares or merchandise not so circumstanced or affected and which are on hand in any such store, warehouse or other building for the purpose of being sold at such sale.
 - (q) The provisions of this section shall not apply to or affect the following persons:
 - (1) Persons acting pursuant to an order or process of a court of competent jurisdiction;
 - (2) Persons acting in accordance with their powers and duties as public officials;
 - (3) Duly licensed auctioneers, selling at auction;
 - (4) Any publisher of a newspaper, magazine or other publication who publishes in good faith any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this section have not been complied with.

(Ord. of 11-19-2009, § 3.08; Ord. of 9-19-2019, § 2(Exh. B))

Sec. 30-112. Failure to pay regulatory fee; collection of delinquent fees.

Any person, firm or corporation required to pay a regulatory fee and who fails to do so during the required period of collection shall be deemed to be delinquent. When any fee becomes delinquent under this division, collection and fines shall be as provided for in section 30-64 and section 30-65 of this division.

(Ord. of 11-19-2009, § 3.09)

Sec. 30-113. Grounds for revocation of business license.

The board of commissioners shall have the right, after notice and hearing, to revoke any business license issued hereunder on the following grounds:

- (1) Violation of this division.
- (2) a. Violation of other laws and resolutions of the county pertaining to the carrying on of such business as would affect the health, safety, and welfare of the public or the county.
 - b. Violation of a law of the United States or the State of Georgia, which affects the public health, welfare and safety.
- (3) Fraudulent business practices.
- (4) Failure of a licensee for a business which is so required by section 30-109 to provide the following enumerated items:
 - a. Sufficient security people, at the expense of the licensee, to control the public and enforce all laws within the area occupied by the business and/or event.
 - b. Adequate emergency medical facilities, at the expense of the licensee, to provide sufficient emergency medical care for members of the public who patronize his business and/or event.
 - c. Adequate maintenance personnel to clean the area occupied by the business as well as those areas which are adjacent to the area occupied by the business and which are littered as a result of the business, event, and/or its patrons.
 - d. Adequate toilet facilities such that a minimum of one toilet facility per 100 patrons is provided.
 - e. Adequate drinking water for members of the public who patronize his business and/or event.
- (5) The business constitutes a nuisance. For the purposes hereof, a nuisance is defined as follows: A nuisance is anything that works to hurt, inconvenience, or damage another; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary reasonable person.

(Ord. of 11-19-2009, § 3.10)

Sec. 30-114. Preliminary investigation on revocation of business license.

Where it is reported to the county manager or designee that a holder of a county business license is engaged in any activity which could form the basis for a revocation of said business license under section 30-113, a preliminary investigation shall be conducted by the county manager or designee in order to determine whether or not there is a basis for the reports. If the county manager or designee's preliminary investigation reveals that there

may be a basis for revocation or suspension of the business license, the business license holder will be notified to appear before the board of commissioners for a hearing under the provisions of section 30-116.

(Ord. of 11-19-2009, § 3.11)

Sec. 30-115. Seizure of business license.

- (a) If the sheriff or marshal of the county shall find that a business of a certain category listed below is in violation of a law of the State of Georgia or in violation of a law or resolution of the county and that the continued operation of the business would create a clear and present danger to the health, safety and general welfare and security of the county, the sheriff or marshal shall be empowered to seize and temporarily suspend the business license of the business. The sheriff or marshal shall deliver the business license to the clerk of the board of commissioners upon the next working day of the clerk. The chairman of the board of commissioners shall then schedule a special hearing of the board of commissioners to consider further action upon the order within five days of the date upon which the clerk of the board of commissioners received the business license from the sheriff or marshal.
- (b) The provisions of this section shall be limited to the following businesses:
 - (1) Tourist camps, cabin camps, tourist houses, roadhouses, public dancehalls or similar establishments as defined in O.C.G.A. title 43, ch. 21 (O.C.G.A. § 43-21-1 et seq.);
 - (2) Flea markets, outdoor exhibitions, outdoor performances, outdoor musical festivals or other places of outdoor public assembly;
 - (3) Auctions of property other than real estate, billiard rooms, game rooms, canvassers and solicitors, secondhand sales, pawn brokers, precious metal dealers, private detectives and detective agencies, carnivals, circuses, traveling shows, taxi services, limousine services, and bounty hunters.
 - (4) Vape shops as defined in section 30-363.

(Ord. of 11-19-2009, § 3.12; Ord. of 10-17-2019, § 2(Exh. B))

Sec. 30-116. Hearing on revocation of business license.

- (a) When a matter is transmitted by the county manager or designee, the sheriff or the marshal to the clerk of the board of commissioners for possible suspension or revocation, the chairman of the board of commissioners shall schedule a hearing before the board of commissioners. The board of commissioners shall make such investigation as it deems necessary.
- (b) The licensee shall be notified in person or by mail at the business address of the date and time of the hearing. The licensee may appear in person or be represented by counsel.
- (c) At the conclusion of the hearing, the board of commissioners, based upon evidence submitted at the hearing, shall enter an order making findings of fact and then:
 - (1) Find that the evidence does not authorize revocation or suspension;
 - (2) Issue a warning to the licensee;
 - (3) Suspend the business license and limit the suspension to a probationary period of time;
 - (4) Revoke the business license and limit the revocation to a probationary period of time;
 - (5) Suspend the business license;
 - (6) Revoke the business license; or

(7) Take any other appropriate action regarding the license.

(Ord. of 11-19-2009, § 3.13)

Sec. 30-117. Appeal of decision of administrative official.

- (a) Any person, firm or corporation may appeal any action, order, decision, or determination of the county manager or designee or any other administrative official to the board of commissioners. The appeal is limited to an alleged error of the official from which the appeal is taken.
- (b) The appeal shall be filed in writing with the clerk of the board of commissioners within 15 days following the date on which the alleged error was made. Upon receiving the appeal, the clerk shall schedule a hearing before the board of commissioners and notify all parties to the appeal by mail at their business address of the time and date of the appeal hearing.
- (c) All parties to the appeal may appear in person or be represented by counsel.
- (d) The board of commissioners shall conduct the hearing. At the conclusion of the hearing, the board of commissioners shall enter an order making findings of fact and shall have all the powers of the official from which the appeal was taken.

(Ord. of 11-19-2009, § 3.14)

Sec. 30-118. Board of commissioners' decisions final.

Any decision, order, requirement or determination of the board of commissioners of the county shall be a final administrative determination. Any application for relief from an official action of the board of commissioners shall be as set forth in section 30-127 of this division.

(Ord. of 11-19-2009, § 3.15)

Sec. 30-119. Requirements for businesses exempted from fees.

Even though a person, firm or corporation may be exempt under section 30-60(1) from paying an administrative fee, regulatory fee, and occupation tax, or exempt from paying the administrative fee and occupation tax under section 30-60(2) through (4), such person, firm or corporation shall apply to the county manager or designee for a free business license to engage in or carry on any business, occupation or use provided for herein, and shall submit proper credentials showing that the applicant is entitled to exempt status. The applicant shall comply with all other provisions of this article and all other rules, regulations and resolutions of the county and upon failure to do so shall be subject to the penalties of this article or any other appropriate resolution of the county.

(Ord. of 11-19-2009, § 3.16)

Sec. 30-120. Right of entry.

The county manager or designee, the Dawson County Marshal's Office and/or the sheriff, or their authorized representatives shall have the power to enter any premises during the normal business hours of the business for the purpose of enforcement of this division.

(Ord. of 11-19-2009, § 3.17)

Sec. 30-121. Business license for canvassers and solicitors.

- (a) Any person, firm or corporation engaging or offering as a canvasser or solicitor in person or by telephone at residences and places of business in the unincorporated areas of the county, for the purpose of soliciting orders, sales, subscriptions, contributions, or conducting business of any kind, shall first obtain a business license from the county manager or designee, and in addition thereto must secure identification badges from the county marshal for each canvasser or solicitor. Canvassers and solicitors for nonprofit organizations who are regularly enrolled in a public or private school in the county shall not be required to obtain identification badges.
- (b) All such persons, firms, or corporations must file an application for a business license with the county manager or designee, which application shall contain identification and the signature of each person so canvassing or soliciting, the name and address of the employer or sponsor, and the proposed method of operation in the county, including the time and area of such operation, limited to daylight hours only.
- (c) Licenses shall be granted or refused after an investigation of the applicant and any canvassers or solicitors named in the application. No license or badge shall be issued to any applicant, canvasser, or solicitor who shall have a conviction for a crime of moral turpitude, a pending charge for an offense involving the elements of assault and battery, or any civil judgment involving unethical or improper business actions, including but not limited to actions which would constitute fraud and deceit under the laws of the state.

(Ord. of 11-19-2009, § 3.18)

Sec. 30-122. Background investigation required for operators of certain businesses.

- (a) Persons, firms or corporations engaged in the following businesses, trades or professions shall be investigated prior to the issuance of a business license:
 - (1) Operators of tourist camps, camp cabins, tourist houses, roadhouses, public dancehalls or similar establishments as defined under O.C.G.A. §§ 43-12-50 and 31-28-1.
 - (2) Operators of flea markets, outdoor exhibitors, outdoor performances, outdoor musical festivals, and outdoor public assemblies as defined in section 30-109.
 - (3) Auctioneers of property other than real estate, owners and/or operators of billiard rooms or game rooms, canvassers and solicitors, (except those exempted from obtaining identification badges under the provisions of section 30-121(a)), secondhand sales, pawn brokerages, precious metal dealers, carnivals, circuses, traveling shows, taxi services, limousine services, tattoo artists, tattoo operators and bounty hunters.
- (b) No license shall be issued to any business type listed in subsection (a) of this section to any person or business where any individual having an interest either as owner, partner, principal stockholder or licensee, whether such interest is direct or indirect, or beneficial or absolute, has been convicted or has taken a plea of nolo contendere within ten years for conviction involving moral turpitude, or five years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or any municipal or county ordinance which would have any effect on the applicant's ability to properly conduct such a business, except traffic offenses. The term "conviction" as used in this section shall include an adjudication of guilt or plea of guilty, plea of nolo contendere or forfeiture of a bond when charged with a crime.
- (c) The board of commissioners on appeal may waive any conviction as a disqualification if it finds that it would have no material effect upon the applicant's ability to properly conduct its business if such license were granted. Upon payment by the applicant of a fee in the amount of \$100.00 the county manager or designee

shall schedule a hearing before the Dawson County Board of Commissioners for its consideration as to whether a license be granted.

- (d) Any person desiring to operate a tattoo establishment or desiring to operate as a tattoo operator or tattoo artist shall make application for a business license to the Business License Office of Dawson County, Georgia. The minimum age of each applicant shall be 18 years of age. Applicants shall furnish two photographs showing a front and side picture of the full face of the applicant, size 2½ inches by two inches. Applicants shall present a medical certificate from a medical doctor certifying that the person is sound physically and mentally, has good eyesight and is not affected with a disease which can be communicated through openings in the human skin. The applicant shall also submit the exposure control plan which has been approved by the Dawson County Health Department prior to the issuance of the business license, and shall further comply with all requirements of the Dawson County Board of Health.

(Ord. of 11-19-2009, § 3.19)

Cross reference(s)—Special requirements for licensing of certain businesses, § 30-109; tattoo establishments, § 26-106 et seq.

Sec. 30-123. Prohibited businesses.

No person shall practice any of the following trades, occupations or professions in the county:

- (1) Astrologers, bookmaking and bookmaking services, clairvoyants, fortune-tellers, gambling or gambling establishments, games of chance, palmists and phrenologists and such other occupations as prohibited by law.
- (2) The sale of drug consumption paraphernalia or drug enhancement paraphernalia (head shops) by persons other than those legally licensed as a pharmacist.
- (3) No business activity listed in section 30-109 shall be conducted within the unincorporated areas of Dawson County prior to being approved in accordance with section 30-109.

(Ord. of 11-19-2009, § 3.20)

Sec. 30-124. Amount of regulatory fees.

The regulatory fees for businesses set forth per the Dawson County Planning and Development Fee Schedule shall be in addition to the administrative fee and the occupation tax imposed in this article. Registration and regulatory fees shall be non-refundable after the fact. Upon written request the occupation tax may be refunded, if the application is not approved or is canceled.

(Ord. of 11-19-2009, § 3.21; Ord. of 9-19-2019, § 2(Exh. B))

Sec. 30-125. Additional restrictions on certain businesses.

- (a) Door to door canvassers or solicitors shall be limited to daylight hours only and must display badges issued by Dawson County while canvassing or soliciting.
- (b) All food sales or merchandise sales from vehicles require written permission from the property owner on which the vehicle is located.
- (c) Flea markets. No public sales before noon on Sundays; before noon operations limited to loading and unloading.

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- (d) Establishments permitting public dancing must close by 12:30 a.m. weeknights, except Thursday and Friday nights, when they may remain open until 2:00 a.m. There will be no Sunday operation.
 - (e) Racetracks. Racing is prohibited between 10:00 a.m. and 12:30 p.m. on Sundays, ending racing activity at 7:00 p.m. on Sunday and at midnight on other nights. There will be a 1:00 a.m. extension for an unforeseen delay only due to extenuating circumstances.

(Ord. of 11-19-2009, § 3.22)

Sec. 30-126. Amendments.

This division may be amended from time to time, and all persons, businesses, occupations, trades and uses subject to this division shall be subject to such amendment.

(Ord. of 11-19-2009, § 3.23)

Sec. 30-127. Appeal of decisions of board of commissioners.

- (a) Any person, firm or corporation who may have a substantial interest in any decision of the board of commissioners may appeal from any final decision of the board of commissioners by certiorari to the Superior Court of Dawson County by filing a petition with the clerk of the court in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law within 30 days after the decision of the board of commissioners is rendered.
- (b) The appellant shall bear the cost of preparing the necessary documents required by the court.

(Ord. of 11-19-2009, § 3.24)

Sec. 30-128. Incorporation of vape shop license into business license.

As provided in division 10 of this article, a license to sell "alternative nicotine products" and "vapor products" (as defined in division 10) shall, if approved, be issued as a component of an applicant's business license. Additional application materials and fees will be required from any applicant seeking to have this licensure component included in its business license.

(Ord. of 10-17-2019, § 2(Exh. B))

Secs. 30-129—30-152. Reserved.

DIVISION 4. MASSAGE AND BODYWORK THERAPY BUSINESSES

Sec. 30-153. Purpose.

The purpose of this division is to regulate massage and bodywork therapy businesses in the interest of promoting and protecting the public health, safety and general welfare of the citizens of the unincorporated county.

(Ord. of 11-19-2009, § 4.01)

Sec. 30-154. Definitions.

The following terms used in this division regulating massage and bodywork therapy businesses shall have the meanings indicated below:

Business license means the certificate issued upon payment of the administrative fee, payment of the regulatory fee, if any, and the payment of the occupation tax. Only one business license certificate shall be issued, which shall demonstrate that the fees and tax have been paid.

County means the unincorporated area of Dawson County, Georgia.

Employee means any person over 18 years of age, who renders any service in connection with the operation of a massage and bodywork therapy business and who receives compensation from the owner, operator or patrons of the business. For the purpose of this division, the term "employee" includes the terms "massage and bodywork therapist" and "independent contractors."

Good moral character means a person who has not been convicted of a sex-related crime, or convicted of an attempt to commit such offense, or convicted in any state of any offense which if committed or attempted in this state, would have been punished as a sex related crime, in the past ten years.

Home office means any residence which a person may use as a base of operation to include making appointments, receiving phone calls, mail, or engaging in management activity related to a business. This however, would not permit the practice of the business at the home office, any signs, or any visible evidence from the exterior that any type business activity is being conducted at the location.

Massage and bodywork means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, range of motion stretches, soft tissue manipulation or stimulating of the external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, hot packs or cold packs with or without such supplementary aids as rubbing alcohol, water, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. This definition shall also include treatment by baths of all kinds, including all forms and methods of hydrotherapy. This definition excludes "physical therapy" as that term is defined in O.C.G.A. § 43-33-3(7).

Massage and bodywork therapist means any individual who, for any consideration whatsoever, engages in the practice of "massage and bodywork or reflexology" as defined herein, whether as an owner, operator or employee of a massage and bodywork therapy business.

Massage and bodywork therapy business means any business or location operated by any person, firm, association or corporation, who engages in, carries on, or permits to be engaged in or carried on, any of the activities defined under massage and bodywork therapy or reflexology herein. Massage and bodywork therapy or reflexology businesses shall not include any occupations, businesses or professions exempted by section 30-105 of this article.

Massage parlor means any building, structure, or place used for the purpose of lewdness, assignation, prostitution, or masturbation for hire.

Minor means any person who has not attained the age of 18 years.

Operator means the manager or other natural person principally in charge of a massage and bodywork therapy business.

Owner or owners shall mean the proprietor if a sole proprietorship, all partners (general and limited) if a partnership, or all officers, director or designees and persons holding ten percent or more of the outstanding shares if a corporation.

Patron means any person over 18 years of age, or a minor with verified written consent of at least one parent or guardian, or who is accompanied by at least one parent or guardian, who receives a massage and bodywork or reflexology therapy under such circumstances that it is reasonably expected that he or she will give money or any other consideration thereof.

Recognized school means a state-licensed school or institution of learning which has for its purpose the teaching of the theory, method, profession, and work of massage and bodywork, including but not limited to; physiology, anatomy, hygiene, applied kinesiology, AIDS awareness, ethics, and statutes and rules of massage and bodywork therapy, and which school requires a resident course of study of not less than 500 hours before the student shall be furnished with a diploma or certificate of graduation from such school following the successful completion of such course of study or learning, or a state-licensed school or institution of learning which has for its purpose the teaching of the theory, method, profession, and work of reflexology, and which school requires a resident course of study of not less than 200 hours before the student shall be furnished with a diploma or certificate of graduation from such school following the successful completion of such course of study or learning.

Reflexology means the application of specific pressure by the use of the therapist's hands, thumbs, and fingers to reflex points limited solely to the patron's hands, feet, and ears and which practice does not involve or require the patron to undress beyond the removal of the shoes and socks and does not require the aid of any mechanical or electrical apparatus or appliance, hot packs or cold packs with or without such supplementary aids as rubbing alcohol, water, liniments, oils, powder, creams, lotions, ointments or other similar preparations but may include the application of antiseptics to the patron's feet.

Specific anatomical regions means and includes the genitals, anus, perineum, and female breast.

(Ord. of 11-19-2009, § 4.02)

Sec. 30-155. Facilities.

No massage and bodywork therapy business establishment shall be issued a license, nor be advertised, operated, established or maintained in the county unless an inspection by the building inspections department and the health department reveals that the establishment complies with each of the following minimum requirements:

- (1) Construction of rooms used for toilets, tubs, steam baths, and showers shall be made water impervious with approved materials and shall be installed in accordance with all codes and ordinances of the county.
- (2) All massage tables, bathtubs, shower stalls, and steam or bath areas, shall have surfaces which may be disinfected.
- (3) The premises shall have equipment for disinfecting and sterilizing nondisposable instruments, and such instruments shall be disinfected after each use on each patron.
- (4) All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean linens and towels storage areas.
- (5) Toilet facilities shall be provided for use by employees and patrons.
- (6) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule immediately adjacent thereto. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels or dryers.

(Ord. of 11-19-2009, § 4.03)

Sec. 30-156. License required.

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, in or upon any premises within the county, a massage and bodywork therapy business without a license to do so. It shall also be unlawful to be a massage and bodywork therapist, owner, operator or employee of a massage and body work therapy business without a valid employee license issued under terms of this division. No license so issued shall condone or make legal any activity there under if the same is deemed illegal or unlawful under the laws of the state or of the United States.

(Ord. of 11-19-2009, § 4.04)

Sec. 30-157. Qualifications for licenses.

Owners, operators, and employees of a massage and bodywork therapy business shall be of good moral character as defined in this division. Any owner, operator, or employee who is convicted of a crime specified under good moral character as defined herein, while employed as an owner, operator, or employee of a massage and bodywork therapy business shall not thereafter work as an owner, operator, or employee of any massage and bodywork therapy business in the county for a period of ten years from the date of such conviction unless a longer time is ordered by a court of competent jurisdiction. The term "convicted" shall include an adjudication of guilt, a plea of guilty, a plea of nolo contendere, or bond forfeiture.

(Ord. of 11-19-2009, § 4.05)

Sec. 30-158. Application process for a license to operate a massage and bodywork therapy business.

Any person, association, partnership, or corporation desiring to obtain a license to operate, engage in conduct, or carry on any massage and bodywork therapy business shall make application to the county manager or designee. A non-refundable new application fee as set forth by the Dawson County Planning and Development Fee Schedule shall be paid to the county manager or designee with the application and all required supporting documentation. The application for a license does not authorize the engaging in, operation of, or carrying on of any massage and body work therapy business. An employee license must be secured by each employee who shall work in the business in any capacity as outlined in section 30-163. Upon payment of an investigation fee, per the Dawson County Planning and Development Fee Schedule, by the applicant, the county manager or designee shall complete an investigation and upon the applicant meeting the requirements shall issue the employee license.

(Ord. of 11-19-2009, § 4.06; Ord. of 9-19-2019, § 2(Exh. B))

Sec. 30-159. Application contents.

Each application for a license to operate a massage therapy business shall contain the following information:

- (1) Applicant's full true name, social security number, date of birth, place of birth, aliases, sex, nationality, and citizenship.
- (2) The present address and telephone number of the applicant.
- (3) Acceptable written proof that the applicant is at least 21 years of age.

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- (4) Business, occupation, or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, director and officers of a corporation.
 - (5) The business license history of the applicant and where such applicant, in previous operations in this or any other city, state or territory under license, has had such license or permit for a massage and bodywork therapy business or similar type business revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
 - (6) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the date and place of incorporation, and the names and addresses of each of its current officers and director. If the applicant is a partnership, the applicant shall set forth the same, the residence address and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the county clerk. If one or more partners are a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant, corporation, or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this division, but only one application fee shall be charged.
 - (7) If the applicant, any partners, or any corporate officers or director, if the applicant is a corporation, have been convicted of any crime involving good moral character in the past ten years, and if so a complete description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether any terms of disposition have been fully completed.
 - (8) If the applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in the state, including articles of incorporation, trade name affidavit, if any, last annual report, if any.
 - (9) Address of the premises to be licensed.
 - (10) Whether the premises are owned or rented.
 - (11) Each applicant for a license to operate a massage and bodywork therapy establishment or business shall be verified and acknowledged under oath to be true and correct by:
 - a. If the applicant is an individual, by the individual;
 - b. If by a partnership, by the manager or general partner;
 - c. If by a corporation, by the president of the corporation;
 - d. If any other organization or association, by the chief administrative official.
 - (12) In addition to the information required herein, the application shall disclose the name, address, social security number, and date of birth of any and all persons who have a financial interest in the entity applying for the license, and must consent for the county to obtain his or her criminal history record information.
 - (13) The application must be accompanied by a certificate or diploma from a recognized school as defined in section 30-154 for each person working in the business of performing massage or reflexology. This subsection does not apply to clerical or administrative personnel.

(Ord. of 11-19-2009, § 4.07)

Sec. 30-160. Application; investigation.

The county shall have 45 calendar days to investigate the application and the background of the applicant. The application will be referred to the commission for consideration of the issuance of a business license upon the completion of the investigation, and verifying the application meets the following requirements:

- (1) The required fee has been paid.
- (2) Application conforms in all respects to the provisions of this division.
- (3) The applicant has not knowingly made a material misrepresentation in the application.
- (4) The applicant has fully cooperated in the investigation of the application.
- (5) The applicant, if an individual, or any officers or director, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted within ten years of the date of the application, in a court of competent jurisdiction of an offense involving moral character as defined herein. Applicant has not had a license or permit to operate a massage and body work therapy establishment or business denied or revoked for cause involving lack of good moral character in this county or any other local government jurisdiction located in or out of this state prior to the date of application.
- (6) The building, structure, equipment, or location of such business, as proposed by applicant complies with all applicable zoning and distance laws code.
- (7) The applicant is at least 21 years of age.

(Ord. of 11-19-2009, § 4.08)

Sec. 30-161. Licenses nontransferable.

No license to operate a massage and bodywork therapy business may be sold, transferred or assigned by a licensee to any other person or persons. Any such sale, transfer, or assignment, shall be deemed to constitute a voluntary surrender of such license, and such license shall thereafter be null and void; provided and excepting, however, that the licensee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license, and in such case, the license upon notification to the county manager or designee, shall be placed in the name of the surviving partner.

(Ord. of 11-19-2009, § 4.09)

Sec. 30-162. Change of name or location.

No licensee shall advertise, operate, conduct, manage, engage in or carry on a massage and bodywork therapy business under any name other than his name and the name of the business as specified on his license. Any application for an extension or expansion of a building where a massage therapy business is located shall require inspection and shall comply with all provisions and regulations of this Code.

(Ord. of 11-19-2009, § 4.10)

Sec. 30-163. Application process for employee license.

Before any person may work as an owner, operator, or employee of a massage and bodywork therapy business, such person shall pay a nonrefundable \$50.00 fee designated in section 30-158 of this Code and file a notice of intended employment with the county manager or designee on forms that require applicant's full name, current address, social security number, date of birth, birth place, sex, telephone number, address for the last five years, business occupation and employment history for the last five years, proof of age (photo I.D. from a governmental agency), complete information concerning the conviction of any crime within the past ten years, citizenship and consent for the county to obtain criminal history record information. If such applicant will engage in any activities of massage and bodywork or reflexology as defined in this division, such applicant shall provide a required diploma or certificate of graduation from a recognized school as defined by this division, or provide a current license from another state whose licensure requirements meet or exceed those set forth in this division, or provide proof of successful completion of the national certification examination for therapeutic massage and bodywork. Upon the filing of the notice and any other required documents with the county manager or designee, the applicant may become a conditional employee and work on the licensed premises. The county shall have 45 calendar days to investigate the information furnished by the applicant. Each applicant shall furnish a consent form authorizing the county to receive criminal history information as may be contained in the files of the GCIC. If the applicant is found to be of good moral character and otherwise qualifies under this division, the county manager or designee shall grant approval of employment. Upon approval, the applicant shall be issued an employee license. The license shall be with the owner, operator or employee while on a licensed premises or while engaged in or carrying on any activities of massage or reflexology. All notices to applicants or license holders issued pursuant to this division shall be mailed certified mail, return receipt requested, to the address set forth in the notice of intended employment. Applicants and license holders shall have the duty to furnish the county manager or designee a new mailing address if the applicant's or license holder's address shall change during the investigation period or term of employment. Employee licenses issued pursuant to this code section shall remain valid until or unless otherwise suspended, revoked or in such case or circumstance where the employee would not otherwise qualify for the granting of a new license under this division.

(Ord. of 11-19-2009, § 4.11)

Sec. 30-164. Suspensions and revocations.

If the sheriff or marshal of the county shall find that a massage therapy business or a massage therapist is in violation of a law of the state or in violation of a law or resolution of the county and that the continued operation of the business would create a clear and present danger to the health, safety and general welfare and security of the county, the sheriff or marshal shall be empowered to seize and temporarily suspend the business license of the business. The sheriff or marshal shall deliver the business license to the county manager or designee upon the next working day of the county manager or designee. The chairman of the board of commissioners shall then schedule a special hearing of the board of commissioners to consider further action upon the order within five days of the date upon which the county manager or designee received the business license from the sheriff or marshal. The commission may suspend or revoke the license for any one of the following reasons:

- (1) A licensee gave false or misleading information in the original or renewal application process.
- (2) A licensee has knowingly allowed the violation of this Code or the violation of laws of the state to occur on the premises.
- (3) A licensee fails to maintain good moral character as defined herein.
- (4) A licensee fails or refuses to provide consent for the county to obtain criminal history record information.

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- (5) A licensee fails to pay any fee or any other amount of money due to the county under this division or any other code section.
 - (6) Violations of any county codes or laws of the state that demonstrate the owner(s) further conducting the business would be a detriment to the community or surrounding area.

(Ord. of 11-19-2009, § 4.12)

Sec. 30-165. Appeals procedure.

- (a) Any person, firm or corporation may appeal any action, order, decision, or determination of the county manager or designee or any other administrative official to the board of commissioners. The appeal is limited to an alleged error of the official from which the appeal is taken.
- (b) The appeal shall be filed in writing with the clerk of the board of commissioners within 15 days following the date on which the alleged error was made. Upon receiving the appeal, the clerk shall schedule a hearing before the board of commissioners and notify all parties to the appeal by mail at their business address of the time and date of the appeal hearing.
- (c) All parties to the appeal may appear in person or be represented by counsel.
- (d) The board of commissioners shall conduct the hearing as the chairman shall see fit. At the conclusion of the hearing, the board of commissioners shall enter an order making a finding of fact and shall have all the powers of the official from which the appeal was taken.

(Ord. of 11-19-2009, § 4.13)

Sec. 30-166. Penalty for violation.

Any person, firm, corporation, association or partnership violating any provision of this division as the same exists or as hereinafter amended, failing to do anything required by this division as the same exists or as hereafter amended, shall be amenable to the process of the Magistrate Court of Dawson County, shall be subject to the provisions of section 30-65 of this article.

(Ord. of 11-19-2009, § 4.14)

Sec. 30-167. Enforcement.

The enforcement of the provisions of this division shall be conducted by the county manager or designee, the county marshal's office or county sheriff's office.

(Ord. of 11-19-2009, § 4.15)

Sec. 30-168. Renewal of licenses.

All licenses for massage and bodywork therapy businesses shall expire one year from the original date of issue, but may be reissued by the county manager or designee for the following year, upon renewal application being made, payment of the appropriate fee designated in section 30-169 of this Code, and a determination by the county manager or designee that the applicant remains qualified as set forth in this division. Renewal applications shall be submitted and renewal fees shall be paid by November 15. Licenses not renewed by December 31 shall be void and such license holder must reapply as a new applicant in order to obtain a license.

(Ord. of 11-19-2009, § 4.16)

Sec. 30-169. Fee schedule.

All fees as provided in the Dawson County Planning and Development Fee Schedule shall apply.
(Ord. of 11-19-2009, § 4.17; Ord. of 9-19-2019, § 2(Exh. B))

Sec. 30-170. Exceptions.

This article shall not apply to the following while engaged in the performance of the duties of their respective occupations, business or professions:

- (1) Physicians, surgeons, chiropractors, osteopaths, occupational therapists, or physical therapists who are duly licensed to practice their respective professions in the state.
- (2) Nurses who are registered under the laws of the state who practice nursing only.
- (3) Barbers, cosmetologists and nail technicians who are duly licensed under the laws of the state, except that this exemption shall apply solely to the massaging and bodywork of the neck, face, scalp, feet, hands, and hair of the customer or client for cosmetic purposes.
- (4) A "recognized school" as defined in section 30-154 of this division.
- (5) Any person actively enrolled in and pursuing a course of study leading to a degree or certificate as a massage and bodywork therapist in an educational program in a "recognized school," not to exceed one year beyond the effective date of this division.
- (6) None of the provisions of this division shall be construed so as to limit or prevent any person duly licensed under the laws of this state to practice the profession for which he or she was licensed.
- (7) Persons licensed as a "home office" shall be exempt from requirements of section 30-155.

(Ord. of 11-19-2009, § 4.18)

Sec. 30-171. License required prior to advertising.

No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, a massage and bodywork therapy business without a valid massage and bodywork therapy license issued pursuant to this division.

(Ord. of 11-19-2009, § 4.19)

Sec. 30-172. Minimum age of massage and bodywork therapist.

No massage and bodywork therapy business or owner or operator shall employ or contract with, as a massage and bodywork therapist, a person under the age of 18 years or any person not licensed pursuant to this division.

(Ord. of 11-19-2009, § 4.20)

Sec. 30-173. Hours of operation.

A massage and bodywork therapy business shall be closed between 10:00 p.m. and 6:00 a.m.
(Ord. of 11-19-2009, § 4.21)

Sec. 30-174. Patrons not to administer massage and bodywork.

No massage and bodywork business or employee, owner or operator thereof shall offer to permit, or permit, any patron to administer any act of massage and bodywork or reflexology to any person.

(Ord. of 11-19-2009, § 4.22)

Sec. 30-175. Price rates to be posted.

Price rates for all services performed at a massage and bodywork therapy business shall be prominently posted in the reception area in a location available to all prospective patrons.

(Ord. of 11-19-2009, § 4.23)

Sec. 30-176. Alcoholic beverages prohibited.

No alcoholic beverages shall be allowed to be brought into or served, stored, kept, or consumed on the premises of a massage and bodywork therapy business.

(Ord. of 11-19-2009, § 4.24)

Sec. 30-177. Massage of specific anatomical areas prohibited.

No owner, operator or employee shall intentionally touch or massage, or offer to touch or massage any specific anatomical region of any patron.

(Ord. of 11-19-2009, § 4.25)

Sec. 30-178. Patron coverings required.

Each massage and bodywork therapy business shall provide to each patron clean, sanitary and opaque coverings capable of covering the patron's specific anatomical regions. Reuse of such covering is prohibited unless the covering has been adequately cleaned. No massage and bodywork shall be administered unless the patron is covered by such covering of the specific anatomical regions. Opaque coverings shall not be required to be furnished to patrons receiving only reflexology therapy. Patrons receiving reflexology therapy shall not undress beyond the removal of shoes and socks.

(Ord. of 11-19-2009, § 4.26)

Sec. 30-179. Proper patron clothing required.

With the exception of bathrooms and dressing rooms, no massage and bodywork therapy business, owner, operator or employee thereof shall permit any person within the massage and bodywork therapy business unless the specified anatomical regions are covered.

(Ord. of 11-19-2009, § 4.27)

Sec. 30-180. Proper owner, operator, employee clothing required.

Each owner, operator, and employee of a massage and bodywork therapy business shall, while in the presence of another person, while on the premises of a massage and bodywork therapy business, wear clothing of an opaque material, and it shall be unlawful for such person to fail to fully conceal his or her specific anatomical regions or any portion thereof.

(Ord. of 11-19-2009, § 4.28)

Sec. 30-181. Compliance with laws and ordinances.

No patron, owner, operator, or employee of a massage and bodywork therapy business shall violate any federal, state or local law or ordinance while engaged in or carrying on any of the activities of massage and bodywork or reflexology as defined in this division.

(Ord. of 11-19-2009, § 4.29)

Sec. 30-182. Authority to inspect premises.

Massage and bodywork therapy businesses shall be open at reasonable times for inspection by county employees to ensure compliance with this Code.

(Ord. of 11-19-2009, § 4.30)

Sec. 30-183. Minors as patrons unlawful.

- (a) It shall be unlawful to allow a person who is under the age of 18 years to become a patron of a massage and bodywork therapy business unless such person possesses verified written permission from at least one parent or guardian, or is accompanied by at least one parent or guardian.
- (b) It shall be the duty of the owner, operator or employee of each massage and bodywork therapy business to ensure that no person under the age of 18 years becomes a patron of the business unless such person possesses verified written permission from at least one parent or guardian or is accompanied by at least one parent or guardian. It shall be presumed that an owner, operator, or employee knew a person was under the age of 18 unless such owner, operator or employee asked for and was furnished photo identification issued by a governmental agency reflecting that such person is 18 years of age or older.

(Ord. of 11-19-2009, § 4.31)

Sec. 30-184. Proper diploma or certificate required.

It shall be unlawful for any owner, operator, or employee possessing a diploma or certificate of graduation from a recognized school, only for the work or practice of reflexology, to engage in activities beyond those defined under reflexology herein.

(Ord. of 11-19-2009, § 4.32)

Sec. 30-185. Prohibited devices and preparations in reflexology.

It shall be unlawful for any owner, operator, or employee engaged in the activities of reflexology, to apply to any patron any mechanical or electrical apparatus or appliance, hot packs or cold packs, with or without such supplementary aids as rubbing alcohol, water, liniments, oils, powder, creams, ointments, or other similar preparations. Antiseptics may be applied only to a patron's feet.

(Ord. of 11-19-2009, § 4.33)

Sec. 30-186. Prohibited businesses; masseurs or massage parlors.

- (a) It shall be unlawful for any masseur or masseuse to massage any person in any building, structure, or place used for the purpose of lewdness, assignation, prostitution, or masturbation for hire.
- (b) Activities in accordance with this division may be licensed, and physical therapy conducted by a licensed physical therapist or conducted under the supervision of licensed medical personnel is permitted.

(Ord. of 11-19-2009, § 4.34)

Sec. 30-187. Hearing on revocation of business license.

- (a) When a matter is transmitted by the county manager or designee, the marshal or the sheriff to the clerk of the board of commissioners for possible suspension or revocation, the chairman of the board of commissioners shall schedule a hearing before the board of commissioners. The board of commissioners shall make such investigations as it deems necessary and shall conduct the hearing as the chairman shall see fit.
- (b) The licensee shall be notified in person or by mail at his business address of the date and time of the hearing. The licensee may appear in person or be represented by counsel.
- (c) At the conclusion of the hearing, the board of commissioners, based upon evidence submitted at the hearing, shall enter an order making a finding of fact and then:
 - (1) Find that the evidence does not authorize revocation or suspension;
 - (2) Issue a warning to the licensee;
 - (3) Suspend the business license and probate the suspension;
 - (4) Revoke the business license and probate the revocation;
 - (5) Suspend the business license;
 - (6) Revoke the business license; or
 - (7) Take any other appropriate action regarding the license.

(Ord. of 11-19-2009, § 4.35)

Secs. 30-188—30-212. Reserved.

DIVISION 5. DEPOSITORY FINANCIAL INSTITUTIONS²

Sec. 30-213. Definitions.

All definitions set forth in section 30-48 of this article are incorporated herein by reference and shall be included in this division.

County, as used in this division, means the area within the legal boundaries of Dawson County, Georgia.

Dawson County, Georgia, as used in this division, means the unincorporated as well as any incorporated area within Dawson County, Georgia.

Depository financial institutions shall mean state and national banks, state building and loan associations, and federal savings and loan associations.

Gross receipts shall mean gross receipts as defined in O.C.G.A. § 48-6-93.

(Ord. of 11-19-2009, § 5.01)

Sec. 30-214. Business license tax on depository financial institutions.

- (a) In accordance with O.C.G.A. § 48-6-93, there is hereby levied an annual business license tax upon all depository financial institutions located within Dawson County at a rate of 0.25 percent of the gross receipts of said depository financial institutions.
- (b) The minimum annual amount of business license tax due from any depository financial institution pursuant to this section shall be \$1,000.00.
- (c) Pursuant to O.C.G.A. § 48-6-93(c), each depository financial institution subject to this tax shall file a return of its gross receipts with the Business License Department of Dawson County on March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and in the form prescribed by the commissioner of the department of revenue based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The Board of Commissioners of Dawson County shall assess and collect the tax levy pursuant to this section based upon the information provided in said return.
- (d) Taxes levied pursuant to this section shall be due no later than 30 days after filing of the return prescribed by this section unless extended by the board of commissioners.

(Ord. of 11-19-2009, § 5.02)

Sec. 30-215. Violation of article; penalty.

- (a) In addition to other remedies available to the county for the collection of special taxes, occupation taxes and regulatory fees due the county from persons subject to the tax or fee who fail or refuse to pay the tax or fee,

²State law reference(s)—Local business license tax on depository financial institutions, O.C.G.A. § 48-6-93.

the officer charged with the collection of the tax or fee shall issue executions against the delinquent taxpayers for any or all of the following:

- (1) The amount of the taxes or fees due when the taxes or fees become due.
 - (2) Any penalty imposed by section 30-65(a) of this article.
 - (3) Any interest imposed by 30-65(a) of this article.
- (b) The court of competent jurisdiction (Dawson County Magistrate Court) for the enforcement of ordinances of Dawson County may impose a civil fine for failure to pay the occupation tax or regulatory fee. Such civil fine shall not exceed \$500.00 and may be enforced by the contempt power of the court.

(Ord. of 11-19-2009, § 5.03)

State law reference(s)—Penalties for ordinance violations, O.C.G.A. § 36-1-20.

Secs. 30-216—30-238. Reserved.

DIVISION 6. PAWNSHOPS

Sec. 30-239. State law reference.

Pawnbrokers, O.C.G.A. § 44-12-130 et seq.

(Ord. of 11-19-2009, § 6.01)

Sec. 30-240. License required.

All persons, before beginning the business of operating a pawnshop, shall first file an application with the county manager or designee to obtain a license to conduct such a business.

(Ord. of 11-19-2009, § 6.02)

Sec. 30-241. Application for license; issuance of license.

(a) *Application.*

- (1) All persons 25 years of age or older desiring to obtain a license required under this division shall make written application to the board of commissioners through the planning and development department for such privilege, and shall supply such information as may be required by the county manager or designee. The application shall be sworn to by the applicant or agent thereof.
- (2) All applicants shall furnish all data, information and records requested of them. Failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss the application, with prejudice. An applicant, by filing an application, agrees to produce for oral interrogation any persons who are considered as being important in the ascertainment of the facts relative to such license, as may be requested by the board of commissioners or its duly authorized representative. The failure to produce such persons within 30 days after being requested to do so shall result in the automatic dismissal of such application.

- (b) *Notification to county of changes in information.* Licensees shall immediately notify the county, in writing, through the planning and development department, of any change in any information, material or data

furnished in connection with an application for a license, or of any material change in the type of business or ownership or qualifications of the applicant or employees subsequent to license issuance.

(c) *Citizenship and residency requirements.*

- (1) No license shall be granted under this division to any applicant who is not a citizen of the United States and who has not been a resident of the county for a period of one year prior to filing the application.
- (2) Where the applicant is a corporation, the majority stockholder must meet the residence requirements set out in subsection (c)(1) of this section, and the license shall be issued to the corporation and the majority stockholder.
- (3) If the applicant is a partnership, the requirements pertaining to corporations shall apply.

(d) *Applicants with prior convictions.*

- (1) No license shall be issued under this division to any person for pecuniary gain where any individual having an interest, either as owner, partner, principal stockholder or licensee, whether such interest is direct or indirect, or beneficial or absolute, or his spouse, has been convicted or has taken a plea of nolo contendere, within five years immediately prior to the filing of the application, for any felony or misdemeanor of any state or of the United States or any municipal or county ordinance which would have any effect on the applicant's ability to properly conduct such a business, except traffic offenses. The term "conviction," as used in this section, shall include an adjudication of guilt or plea of guilty, plea of nolo contendere or forfeiture of a bond when charged with a crime. Where the violation is for a misdemeanor, forfeiture of bond or violation of a county ordinance, or where there is a plea of nolo contendere, the county manager or designee may, after investigation, waive the violation as a disqualification.
- (2) The board of commissioners, on appeal, may waive any conviction as a disqualification if it finds that it would have no material effect upon the applicant's ability to properly conduct its business if such license were granted.

(e) *Investigation of applicant.* All applications for a license for a pawnshop shall be investigated by the county marshal. No license shall be issued by the county manager or designee to any person until such time as a signed and notarized background check consent form has been filed by such person with the marshal's office or such department's designee and upon payment of a fee that shall be established by the board of commissioners and a search of the criminal record of the applicant is completed. The background check consent form shall include, but not be limited, to the name, date of birth, address, citizenship status and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order. Applications must be accompanied by a valid government issued I.D. card. (for example a drivers license or state issued I.D. card). The marshal shall report his recommendations to the board of commissioners. A copy of such report shall be filed with the planning and development department.

(f) *Time limit for obtaining license.* All licenses must be obtained and fees paid not later than two weeks from the date of the approval of the application by the board of commissioners, and, if not so obtained, the approval granted by the board of commissioners shall be void.

(g) *Issuance.* When a license has been approved and the applicant has deposited with the planning and development department the required fee, the license shall be issued.

(Ord. of 11-19-2009, § 6.03)

Sec. 30-242. Display of license number.

Each pawnshop licensee shall have legibly printed on the front window of the licensed premises the inscription "Dawson County Pawnshop License Number _____."

(Ord. of 11-19-2009, § 6.04)

Sec. 30-243. Time limit for commencement of business; cessation of operation.

- (a) All holders of licenses under this division must, within three months after the issuance of the license, open the establishment referred to in the license for business, unless such period is extended by the county manager or designee. Failure to open the licensed establishment within the three-month period shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.
- (b) Any holder of a license who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall, upon completion of the three-month period, automatically forfeit his license, and the license shall, by virtue of such failure to operate, be canceled without the necessity for any further action of the county manager or designee.

(Ord. of 11-19-2009, § 6.05)

Sec. 30-244. Transfer of license.

No license granted to a pawnshop shall be transferable except upon application to the board of commissioners in the same form and manner and subject to the same requirements with respect to the transferee as are applicable in an original application. Any such license may be transferred only to another person doing the same business at the same place as the person to whom the license was originally issued. When permission for transfer has been granted, the original licensee or transferee shall cause the license to be delivered to the county manager or designee who shall record such transfer, and the transferee shall pay a fee therefore as a condition precedent to engaging in operations under the license. The fee for such transfer shall be kept on file as part of the schedule of fees in the planning and development department.

(Ord. of 11-19-2009, § 6.06)

Sec. 30-245. Required records; inspection of records and goods.

Any licensee under this division shall keep books wherein shall be entered an accurate description of all property pawned, pledged or sold to the licensee. Such description shall include the name of the maker of the division, any identifying mark or number, and a statement of the kind of material of which it is made. In such books there shall be entered also the name of the person by whom the division was pledged, pawned or sold, and the time when the division was pledged, pawned or sold. These entries shall be made as soon after the transaction as possible, and in no event more than one hour thereafter. Such books, and the articles themselves so pledged, pawned or sold, shall at all times be subject to inspection and examination by the county marshal and/or the sheriff. Any person subject to this division, or any licensee or employee thereof, who shall fail or refuse to keep books as provided in this section or shall make false entries concerning the transactions named, or who shall fail or refuse to permit an inspection or examination by any law enforcement officer of the books and of the property pledged or sold to the licensee shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20.

(Ord. of 11-19-2009, § 6.07)

Sec. 30-246. Weekly report to the sheriff; fingerprinting and identification of customers.

- (a) *Weekly report.* Every licensee under this division shall make a weekly report in writing to the sheriff, or any designated agent, in such form as may be prescribed by the sheriff, of all property pledged, received, traded, bartered, bought or otherwise acquired by the licensee during the week ending at 8:00 p.m. on the Saturday of the reporting week. Such report shall be typewritten and mailed or hand-delivered to the designated agent of the sheriff within 24 hours of the end of the week covered by the report. In addition to any other information required by the sheriff, the report shall include the following:
- (1) The name and address of the licensee;
 - (2) The time of the transaction;
 - (3) The serial number of the pawn tickets;
 - (4) The amount paid or advanced;
 - (5) A full description of the articles, with sufficient information to identify each of such articles, including kind, style, material, color, design, kind and number of precious metals or gemstones, if any, and all identifying names, marks and numbers; and
 - (6) A description of the person pledging, selling or pawning the article, including his name, address, color, weight and height.

Insufficient reports shall be rejected, and any licensee or employee thereof making an insufficient report shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20.

- (b) *Fingerprinting of customers and other required information.* In addition to other records and information as required in subsection (a) of this section, each licensee shall obtain from each person pawning, pledging or selling any article with such licensee the fingerprint of the right-hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand of the person pawning the article shall be obtained and a notation made as to the exact finger printed. All prints shall be made on forms to be furnished by the chief of police, and the licensee shall obtain all other information called for on such form. Fingerprints and the information required in this subsection shall be obtained from all persons each time such persons pawn any article with the licensee, regardless of whether or not that person may have previously pawned an article with such licensee and have been fingerprinted.
- (c) *Customer identification.* In addition to the fingerprinting requirements of subsection (b) of this section, each licensee shall require that any person pawning, pledging, bartering, exchanging, selling or entering into any transaction with the business shall display evidence of identification, such as a duly issued driver's license with a picture, or other similar evidence containing a picture of the customer, and the licensee shall record the driver's license number or other number or feature of such evidence of identification.
- (d) *Violations.* The failure of any licensee or employee thereof to comply with the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20.

(Ord. of 11-19-2009, § 6.08)

Sec. 30-247. Employee permits.

No person shall be employed by a pawnshop in any capacity until such person has been issued an annual personal identification card or permit by the county marshal, authorizing such person to be employed by a pawnshop. Such a permit shall not be issued to any person who has been convicted within five years prior to the application for employment for any misdemeanor or felony involving theft, burglary or crimes against property, any felony involving drugs or controlled substances, any violation of this division, or any other crime involving moral turpitude. The term "conviction," for purposes of this section, shall mean any adjudication of guilt or plea of guilty or nolo contendere. No permit shall be issued as long as there are outstanding criminal warrants, criminal charges, accusations or indictments for any of the crimes specified in this section on which there has been no final disposition or adjudication, and any such application involving any such pending charges shall be held for any final decision until final disposition or adjudication of such charges. Applications must be accompanied by a valid government issued I.D. card (for example a drivers license or state issued I.D. card).

(Ord. of 11-19-2009, § 6.09)

Sec. 30-248. Hours of operation.

No licensee under this division shall operate his place of business except during the hours of 7:00 a.m. to 8:00 p.m.

(Ord. of 11-19-2009, § 6.10)

Sec. 30-249. Holding period for goods received.

All personal property acquired by a licensee under this division, whether by pawn, purchase, barter, trade or otherwise, shall be held and maintained by the licensee at the licensed location, or at such other impound location as may have been previously approved by the sheriff in writing, for a minimum of 30 days, prior to disposal of the property by the licensee, except in instances where the property is redeemed by the pawner.

(Res. No. 92-17, § 1.132, 2-28-1992; Ord. of 11-19-2009, § 6.11)

Sec. 30-250. Dealing with minors.

It shall be unlawful for any pawnbroker or his agents or employees to receive in pawn, pledge or sale goods of any character or description from a minor. For purposes of this section, the term "minor" means any individual 17 years of age or under.

(Ord. of 11-19-2009, § 6.12)

Sec. 30-251. Sale of knives, blackjacks and other weapons.

It shall be unlawful for any licensee under this division to sell, offer for sale or expose for sale any kind of metal knuckles, dirks, sword-in-canes, spears, Bowie knives or switchblade knives, or any blackjacks or similar weapons. Any licensee or employee thereof violating this section shall be deemed guilty of an offense.

(Ord. of 11-19-2009, § 6.13)

Secs. 30-252—30-280. Reserved.

DIVISION 7. POOL ROOMS

Sec. 30-281. State law reference.

Authority to license and regulate billiard rooms, O.C.G.A. § 43-8-2.

(Ord. of 11-19-2009, § 7.01)

Sec. 30-282. Applicability of division; statutory authority.

The rules and regulations set forth in this division shall govern the operation of all pool rooms and billiard halls in the unincorporated areas of Dawson County. The provisions in this division are adopted under the home rule provisions of Art. IX, Section III, Paragraph I of the state constitution (Ga. Const. art. IX, § III, ¶ I), and O.C.G.A. § 43-8-2.

(Ord. of 11-19-2009, § 7.02)

Sec. 30-283. Exemptions from division.

This division shall not apply to billiard tables or billiard rooms operated by private industrial concerns, Young Men's Christian Associations, religious orders, charitable institutions, state, county or city institutions, fraternal orders or bona fide clubs using such tables for members or employees only. O.C.G.A. § 43-8-3.

(Ord. of 11-19-2009, § 7.03)

Sec. 30-284. Application for license; issuance of license.

(a) *Application.* All persons 18 years of age or older desiring to obtain a license required for the operation of a billiard room shall make written application at the office of planning and development department. Such application shall state:

- (1) The name and address of the applicant;
- (2) The place where the proposed business is to be located;
- (3) The nature and character of the business to be carried on;
- (4) If a partnership, the names of the partners;
- (5) If a corporation, the names of the officers and stockholders; and
- (6) Such other information as may be required by the county manager or designee or the planning and development department.

(b) *Definitions.*

Billiard room means any public place where a person is permitted to play the game of billiards and for which a charge is made for the use of equipment.

Billiards means any of the several games played on a table surrounded by an elastic ledge of cushions with balls which are impelled by a cue and shall include all forms of the game known as "carom billiards," "pocket billiards," and "English billiards."

- (c) *Application to be sworn to by applicant or agent.* The application shall be sworn to by the applicant or an agent thereof.
- (d) *Investigation of applicant.*
 - (1) All applicants shall be investigated by the county marshal, and a report made to the planning and development department, before the hearing by the board of commissioners. Said report shall consist of a criminal background check. This requirement shall be waived if a current investigation report is on file. For purposes of this subsection, the term "current" means having been made within the past six months.
 - (2) The county marshal's reports shall be sent to the planning and development department to be placed in the applicant's file.
- (e) *Grounds for denial.*
 - (1) No license shall be issued to any person having an interest in the licensee, directly or indirectly, either as owner, partner or principal stockholder, who has been convicted or has taken a plea of nolo contendere within the past five years immediately prior to filing of the application, of any felony of any state or of the United States. The term "conviction," as used in this section, shall include an adjudication of guilt or plea of guilty or nolo contendere, or the forfeiture of a bond when charged with a crime.
 - (2) No license shall be issued if evidence establishes by a preponderance of the evidence that the granting of such license shall have an adverse effect on the community.

(Ord. of 11-19-2009, § 7.04)

Sec. 30-285. Transfer of license.

A license for the operation of a pool room shall not be transferable except by application to the planning and development department in the same form and manner as an original application.

(Ord. of 11-19-2009, § 7.05)

Sec. 30-286. Suspension or revocation of license; violations.

- (a) Commission of any of the following acts by a licensee under this article, or his agent or employee, shall be a violation of law and shall be grounds for revocation of a billiard room license:
 - (1) It shall be unlawful to permit the use of any drug in any form in or around the place of business.
 - (2) It shall be unlawful to permit any gambling or betting in the place of business or on the premises.
 - (3) It shall be unlawful to permit or commit any violation of a state law or county ordinance.
 - (4) It shall be unlawful for any person under the age of 18 years to play billiards in or for any other purpose to enter or remain in a billiard room during hours and times when alcoholic beverages are sold, consumed or dispensed therein. This subsection shall not apply to persons under 18 years of age who are accompanied by a parent or guardian or who possess a written permit from a parent or guardian, which permit is witnessed by a notary public with seal. Any person desiring admission thereto during hours and times when alcoholic beverages are sold, consumed or dispensed, who is or appears to be

under the age of 18 years, shall produce a satisfactory identification and age verification or certify his age in writing or produce a written permit before he shall be allowed entry.

- (b) In addition to revocation or suspension of a license for the reasons otherwise specified in this article, the license to operate a billiard room or parlor may be suspended or revoked for violation of any of the following standards:
- (1) If the licensee permits public drunkenness and disorderly conduct among patrons or employees. After a warning by any law enforcement officer, a failure to act shall be grounds for revocation or suspension.
 - (2) If the licensee receives notice from the sheriff, marshal or county officials of any violations of any ordinance other than as provided in subsection (b)(1) of this section, without correction thereof, such failure to act shall be grounds for automatic revocation.
 - (3) In the event of violation of state or federal laws by the licensee or his agents or servants on the premises, such violations shall be grounds for revocation or suspension.
 - (4) In the event of conviction of a crime involving moral turpitude by the licensee off the premises, such conviction shall be grounds for revocation or suspension.

(Ord. of 11-19-2009, § 7.06)

Sec. 30-287. Inspections; revocation of state license or permit.

It shall be the duty of the sheriff, marshal or designees to inspect all public billiard rooms in the county for the purpose of ascertaining whether or not the provisions of this division are being observed; and it shall be their duty to report all violations promptly to the appropriate prosecuting attorney of the county and furnish him with such information and assistance as is necessary for the prosecution of such violations. Whenever the state shall revoke any permit or license held by the licensee, the license issued under this division shall thereupon be automatically revoked without any action of the board of commissioners.

(Ord. of 11-19-2009, § 7.07)

Sec. 30-288. Restrooms; sanitation generally.

The place of business of a pool room or billiard hall shall have restrooms for males and females. Such restrooms must be kept clean, and the premises shall be in compliance with all applicable rules and regulations of the health department or other departments of the county.

(Ord. of 11-19-2009, § 7.08)

Sec. 30-289. Health certificate required for premises serving food.

If food is served at a pool room or billiard hall, the applicant shall have a valid health certificate issued by the county health department before any license can be issued under this division.

(Ord. of 11-19-2009, § 7.09)

Sec. 30-290. Hours of operation.

Licensees for the operation of a billiard room shall be permitted to engage in such activities between the hours of 6:00 a.m. and 12:00 midnight.

(Ord. of 11-19-2009, § 7.10)

Sec. 30-291. Gambling; alcoholic beverages.

- (a) No dice, cards, dominoes or other games of chance shall be permitted, nor any form of gambling allowed, in any billiard room or in any other business place operated in connection therewith, and such games as Kelly pool, keno, pigeon pool, star pool, scrub and similar gambling devices are prohibited. No racing or other betting pool shall be exhibited or sold in such place of business. The use of baseball tickets and the posting of results of sporting events is expressly prohibited in billiard rooms or in any place operated in connection therewith.
- (b) No alcoholic beverages shall be sold, served or allowed to be used in or on the premises of billiard rooms or any place operated in connection therewith, except that this prohibition shall not apply if such premises or establishment is an establishment which is authorized to sell alcoholic beverages and is a permitted eating establishment.

(Ord. of 11-19-2009, § 7.11)

Sec. 30-292. Connection with premises where illegal activity is conducted.

It shall be unlawful for any billiard room to maintain connections with any place where gambling or any other illegal activity is conducted, or where persons congregate for the illegal consumption, sale, possession, barter, manufacture, exchange, purchase, dispensation or delivery of or other dealing in alcoholic beverages, or for any immoral purpose.

(Ord. of 11-19-2009, § 7.12)

Secs. 30-293—30-317. Reserved.

DIVISION 8. STATES OF EMERGENCY

Sec. 30-318. Overcharging prohibited.

In order to preserve, protect, or sustain the life, health, or safety of persons or their property, it shall be unlawful during the duration of a state of emergency or subsequent recovery period in which the county has been designated as a disaster area, for any person, firm, or corporation located or doing business in the county to overcharge for any goods, materials, services or housing sold within the county.

(Ord. of 11-19-2009, § 8.01)

Sec. 30-319. Definitions.

Overcharging. The term "overcharging" is defined as charging prices for goods, materials, services, or housing which are substantially in excess of the customary charges or in applicable cases substantially in excess of the supplier's or provider's costs for such goods, materials, services or housing. The existence of overcharging shall be presumed from a substantial increase in the price at which the goods, materials, services, or housing was offered in the usual course of business immediately prior to the onset of the emergency, but shall not include increases in costs to the supplier directly attributable to higher costs of materials, supplies, and labor costs resulting from the emergency.

State of emergency. The term "state of emergency" is defined, pursuant to O.C.G.A. § 38-3-3(5), as a condition declared by the governor when, in his judgment, the threat or actual occurrence of a disaster or emergency is of sufficient severity and magnitude as to warrant extraordinary efforts in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby.

Subsequent recovery period. The term "subsequent recovery period" is defined as that period during which the disaster continues to cause disruptions in the disaster area, but shall not exceed six months after the emergency declaration has been terminated by the governor unless extended by official action of the governing authority of the county.

(Ord. of 11-19-2009, § 8.02)

Sec. 30-320. Penalties.

Violation of the provisions of this division upon conviction shall be punishable by a fine not to exceed \$1,000.00 per violation or imprisonment not to exceed 60 days, or both such fine and imprisonment. Each sale shall constitute a separate offense.

(Ord. of 11-19-2009, § 8.03)

State law reference(s)—Penalties for ordinance violations, O.C.G.A. § 36-1-20.

Secs. 30-321—30-343. Reserved.

DIVISION 9. INTERPRETATION

Sec. 30-344. Other laws.

Any resolution or ordinance that may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be liberally construed in favor of Dawson County, is hereby adopted as a part hereof.

(Ord. of 11-19-2009, art. X)

Secs. 30-345—30-350. Reserved.

DIVISION 10. VAPE SHOPS³

Sec. 30-351. State law reference.

The rules and regulations set forth in this division shall govern the operation of all vape shops in the unincorporated areas of Dawson County. This division is adopted under the home rule provisions of Art. IX, Section III, Paragraph I of the state constitution (Ga. Const. art. IX, § III, ¶ I).

³Editor's note(s)—An ordinance adopted on Oct. 17, 2019, set out provisions intended for use as Div. 10, §§ 30-362—30-370. Inasmuch as there were already provisions so designated, said sections have been codified herein as Div. 10, §§ 30-351—30-359 at the discretion of the editor.

(Ord. of 10-17-2019, § 2(Exh. B))

Sec. 30-352. Definitions.

For the purposes of this section, the following terms shall have the following meanings:

Alternative nicotine product shall mean any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term "alternative nicotine product" shall not include any tobacco product (as defined in Ga. R&Reg. 560-8-1.01), vapor product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Person shall mean and refer to any individual, natural person, partnership, firm, corporation, joint venture, proprietorship, business entity, association, agency, group, organization or group of persons or any other entity.

Specialty vape shop shall mean a vape shop whose sales of alternative nicotine products and vapor products, combined, exceed 25 percent of the aggregate retail sales of the shop, as determined by averaging sales from the prior three months.

Vape juice shall mean any substance that contains nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Vapor product means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from nicotine or other substances in a solution or other form. Such term shall include, but shall not be limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor or aerosol cartridge or other container of nicotine or other substance in a solution or other form, including, but not limited to, a device component, part, or accessory of the device, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Such term shall not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Vape shop shall mean any business whose product line for retail sale includes alternative nicotine products and/or vapor products.

Verified sales report shall mean a document, sworn to as complete and accurate before a notary public, showing the applicant's total receipts and receipts from sales of alternative nicotine products and vapor products for each month in the prior year.

(Ord. of 10-17-2019, § 2(Exh. B); Ord. of 5-6-2021(3), § 1(Exh. A))

Sec. 30-353. Licenses generally; expiration and application dates; renewals.

- (a) Before beginning the business of operating a vape shop, an operator shall first obtain a license to conduct such a business. Only persons who are a minimum of 21 years old will be eligible to obtain a license to operate a vape shop. The application for a license to operate a vape shop shall be made to the county planning and development department, in conjunction with the application for a business license under division 3 of this article. Except as specifically provided in this division 10, the application for, and issuance of, a vape shop license shall be performed in conjunction with, and subject to the terms of, the business licensing process as described in divisions 2 and 3. No separate paper license will be issued for operation of a vape shop; instead, permission to operate a vape shop will be indicated on the granted business license.

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- (b) All persons operating a vape shop under a county business license prior to January 1, 2020 shall file an application for a vape shop license in connection with the shop's next annual business license renewal application and shall meet the application requirements of this division.
 - (c) All licenses issued under this division shall:
 - (1) Permit the licensee to sell alternative nicotine products and vapor products within Dawson County and outside municipalities in Dawson County, Georgia, pursuant to the terms of this division and not inconsistent with the laws of the State of Georgia and of the United States;
 - (2) Be subject to the restrictions on transfer of business licenses under section 30-106, except that a vape shop license may not be transferred from one location to another without the prior approval of the County upon written application;
 - (3) Be subject to all terms and conditions imposed or provided for by future provisions or amendments to this vape shop ordinance; and
 - (4) Indicate if the licensee is authorized to operate a specialty vape shop pursuant to section 30-354(b)(2).
 - (d) In addition to the administrative fee imposed for a business license, a separate nonprorated, nonrefundable administrative fee set forth in the Dawson County Fee Schedule shall be required on all applications for a vape shop license.

(Ord. of 10-17-2019, § 2(Exh. B))

Sec. 30-354. Application for license; issuance of license; denial; appeal; renewal

- (a) *Application contents.* Each initial and renewal application for a vape shop license, in addition to the standard requirements of an application for a business license, shall provide the following:
 - (1) A verified sales report; and
 - (2) A survey (dated no more than 180 days prior to submission of the application), certified by a registered surveyor of the State of Georgia, showing a scaled drawing of the premises, the location on the premises where the applicant desires to sell any item of alternative nicotine product and/or vapor product and the distance to the nearest church building, school building, educational building, school grounds or college grounds, and college campus building. The distance shall be measured in a straight line from the front door of the proposed licensed premises to the front door of the church, day care, or treatment facility, and from the front door of the proposed licensed premises to the nearest property line of the real property used for school, college or educational purposes.
- (b) *Grant/denial.* Grant or denial of applications for a vape shop licenses shall follow the process provided for businesses licenses. No license shall be issued or renewed if any of the following are true:
 - (1) An applicant is not at least 21 years of age.
 - (2) The applicant's verified sales report shows that it operated a specialty vape shop during any consecutive three-month period in the prior year, if the applicant is not permitted to operate a specialty vape shops as provided in subsection (3) below.
 - (3) An applicant's intent is to operate a specialty vape shop, unless such applicant demonstrates that it operated a specialty vape shop on January 1, 2020, and has consistently operated a specialty vape shop since that time, up to and including the date of application. In such case, the license shall specifically state that the licensee is authorized to operate a specialty vape shop under the terms and conditions of this division.

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- (4) An applicant is not the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license.
 - (5) An applicant has had an application for a license denied under the provisions of this division and has made re-application within one year from the final date of such denial. For purposes of this provision, the final date of a denial of license shall be the date of written notice of such denial if the denial is not appealed; or, if the denial is appealed, the date of written notice of denial of the appeal.
 - (6) An applicant has had a license revoked under the provisions of this division within three years from the date of application. For purposes of this provision, the final date of a revocation of license shall be the date of written notice of such revocation if the revocation is not appealed; or, if the revocation is appealed, the date of written notice of denial of the appeal.
 - (7) An applicant seeks a license to operate a vape shop at a location where the county has suspended or revoked a vape shop license in the previous 36 months; and
 - a. The applicant worked at that shop when the license was revoked or suspended; or
 - b. The applicant is related (by blood or marriage within the fifth degree) to the person holding the revoked or suspended license at the location in question.
 - (8) A proposed business fails to comply with the minimum distance limits set forth in this division.
 - (9) An applicant fails to pay required fees.
 - (10) An applicant refuses to respond to requests for information, or provides untruthful or substantially inaccurate information, upon request by the department of planning and development.

(Ord. of 10-17-2019, § 2(Exh. B))

Sec. 30-355. Sale or possession for sale of alternative nicotine products or vapor products without license or beyond boundaries of premises covered by license.

Except as provided in section 30-353(b), it shall be unlawful for any person to sell, distribute, or possess for the purpose of sale any alternative nicotine product and/or vapor product if the person is not authorized by a vape shop license granted by Dawson County.

(Ord. of 10-17-2019, § 2(Exh. B))

Sec. 30-356. Restrictions on sale and display.

- (a) No licensee or other person may sell or permit to be sold any alternative nicotine product and/or vapor product to any person who is under 21 years of age, either directly or indirectly.
- (b) No licensee or other person may operate a specialty vape shop, unless under a license specifically authorizing such operation, as provided in section 30-354(b).
- (c) Each vape shop shall maintain its entire inventory of alternative nicotine product and/or vapor product and any additional line of devices in a screened area. It shall be unlawful for a person to allow any item of alternative nicotine product or vapor product to be in view of the public, except during actual sales transactions of such items.
- (d) No licensee or other person may sell any vape juice that contains any chemical, substance, drug, or other harmful additive other than pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water.

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- (e) All vape shops shall prominently post a sign on any premises where vape juice is sold stating that the only chemicals authorized to be used in such vape juice are pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water.
 - (f) All vape shops shall prominently post a sign on any premises where alternative nicotine products and/or vapor products are sold explaining how to safely use e-batteries for alternative nicotine product and/or vapor products.
 - (g) Any mixing or preparing vape juice on the premises of any building or establishment that offers alternative nicotine products and/or vapor products for retail sales to consumers shall be done strictly in compliance with FDA regulations and applicable permits.

(Ord. of 10-17-2019, § 2(Exh. B); Ord. of 5-6-2021(3), § 2(Exh. B))

Sec. 30-357. Location and minimum distance.

No license shall be issued under this division for the sale of alternative nicotine products and/or vapor products if the intended premises is within 300 feet of any church building, or on any property owned or leased to a church, or in or within 600 feet of any school building, educational building, school grounds, or college campus, or on any property owned or leased to a public or private school or school board for elementary or secondary education. Provided, however, that any premises that sells alternative nicotine products and/or vapor products as of January 1, 2020 and that is located within such restricted proximity may continue to sell such products in such premises, provided that said license holder remains in compliance with all other provisions of this division and the use of the premises to sell alternative nicotine products and/or vapor products remains ongoing and continuous, and provided further that no license renewal application is denied for violating this section if at the time of the original license application the location was in compliance with this section. If the sale of alternative nicotine products and/or vapor products is discontinued, the grandfathering entitlement under this paragraph shall be forfeited.

(Ord. of 10-17-2019, § 2(Exh. B))

Sec. 30-358. Reporting; suspension or revocation of license.

- (a) Upon receipt of a written request from the director of the county planning and development department or any other officer authorized to enforce the provisions of this ordinance, a vape shop license holder shall provide a verified sales report for the 12 months preceding the date of the request. Such report shall be provided within two weeks of receipt of the request, unless an extension is granted in the discretion of the requesting officer.
- (b) Suspension or revocation of vape shop licenses shall follow the process provided for business licenses (sections 30-113 through 30-118).
- (c) A vape shop license may be suspended or revoked for any reason stated under section 30-113, and/or for any the following reasons:
 - (1) A licensee or its agents commit a felony or any crime involving moral turpitude.
 - (2) A license is determined to have been issued due to administrative error, or due to mistake, or in reliance upon any misrepresentation by the applicant or anyone providing information on behalf of the applicant.
 - (3) The licensee's alcohol license or business license is suspended or revoked for cause.

(Ord. of 10-17-2019, § 2(Exh. B))

Sec. 30-359. Penalties for violation of chapter.

Any person who violates any provision of this chapter, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20 and O.C.G.A. § 15-10-60.

(Ord. of 10-17-2019, § 2(Exh. B))

Secs. 30-360, 30-361. Reserved.

ARTICLE III. ROOM OCCUPANCY TAX⁴

Sec. 30-362. Levied; exceptions.

- (a) *Levied.* There is hereby levied an excise tax at the rate of eight percent of the rent paid for the occupancy of any room or rooms, lodging, or accommodations furnished by any person or legal entity located within the unincorporated portions of Dawson County and that is licensed by, or required to pay business or occupation taxes to Dawson County for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, bed and breakfast, short-term home rental, or any place in which rooms, lodging, or accommodations are regularly furnished for value. No tax shall be levied as provided in this section upon fees or charges for any rooms, lodging, or accommodations furnished for a period of more than 30 consecutive days or for use as meeting rooms. No tax shall be levied as provided herein upon the fees or charges for any rooms, lodgings, or accommodations furnished for a period of one or more consecutive days for use by Georgia state or local government officials or employees when traveling on official business. In each fiscal year during which the tax set forth herein is collected, the total amount of taxes collected that exceeds the amount of taxes that would be collected at a rate of five percent shall be expended for promoting tourism, conventions, and trade shows by the Dawson County Convention and visitors bureau division of the Dawson County Chamber of Commerce, a designated marketing organization designated by Dawson County.
- (b) *Additional levy authorization.*
- (1) *Room tax authorized.* Pursuant to the authority of subsection (b) of Code Section 48-13-51 of the O.C.G.A. [O.C.G.A. § 48-13-51(b)], the governing authority of Dawson County is authorized within the territorial limits of the special district located within Dawson County to levy an excise tax at a rate not to exceed eight percent of the charge for the furnishing for value to the public of any room or rooms, lodgings, or accommodations furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to, the county for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly or periodically furnished for value.
- (2) *Enactment subsequent to county resolution.* The enactment of this subsection (b) is subsequent to the adoption of Resolution #2009-001 of the governing authority of Dawson County on February 19, 2009, which specifies the subsequent tax rate, identifies the projects or tourism product development purposes, and specifies the allocation of proceeds.
- (3) *Use of tax.* In accordance with the terms of Resolution #2009-001:

⁴State law reference(s)—Room occupancy tax, O.C.G.A. § 48-13-50 et seq.

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- a. In each fiscal year during which a tax is collected pursuant to O.C.G.A. § 48-13-51(b), an amount equal to not less than 50 percent of the total amount of taxes collected that exceed the amount of taxes that would be collected at the rate of five percent shall be expended for promoting tourism, conventions, and trade shows by the destination marketing organization designated by Dawson County; and
 - b. The remaining amount of taxes collected that exceed the amount of taxes that would be collected at the rate of five percent which are not otherwise expended under subsection (1) of this section shall be expended for tourism product development.

(c) *Definitions.*

Innkeeper means:

- (1) Any person that furnishes for value to the public any room or rooms, lodgings, or accommodations within the unincorporated portions of Dawson County and that is licensed by, or required to pay business or occupation taxes to Dawson County for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, bed and breakfast, short-term home rental, or any other place in which room or rooms, lodgings, or accommodations are regularly furnished for value; or
- (2) A marketplace facilitator who facilitates the furnishing for value to the public any room or rooms, lodgings, or accommodations on behalf of another person in any manner, including, but not limited to, promoting, marketing, advertising, taking reservations, collecting payment, or as otherwise defined by O.C.G.A. § 48-13-50.2(2)(B).

Marketplace innkeeper means an innkeeper as defined in section 30-362(c)(1)b.

(Res. of 4-1-1991, § 1; Res. No. 2009-001, § 1, 2-19-2009; 2009 Ga. Laws (Act No. 270), page 3987, §§ 1—3; Ord. of 9-16-2021, § 1 (Exh. A))

State law reference(s)—Tax authorized, O.C.G.A. § 48-13-51(a)(3).

Sec. 30-363. Use of proceeds.

The proceeds collected pursuant to this article shall be used to promote tourism, conventions, and trade shows in accord with O.C.G.A. § 48-13-51(a)(3).

(Res. of 9-15-2005, § 1)

Sec. 30-364. Duty to collect.

- (a) It shall be the duty of every innkeeper of any establishment covered by section 30-362 to collect the tax on occupants as hereinabove imposed in section 30-362.
- (b) A marketplace innkeeper shall constitute the innkeeper with respect to the transactions taxable pursuant to this article that it facilitates on behalf of another person. All taxes levied or imposed by this article on transactions facilitated by a marketplace innkeeper shall be paid by the purchaser to the marketplace innkeeper.
- (c) The marketplace innkeeper shall remit all taxes in the manners provided in this article and, when received by the taxing authority.
- (d) Each marketplace innkeeper shall be liable for the full amount of taxes levied or imposed by this article on its transactions or the amount of tax collected by such marketplace innkeeper from all purchasers on all such transactions, whichever is greater.

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- (e) A transaction that is not taxable pursuant to section 30-362(a) shall not be taxable to the marketplace innkeeper.
 - (f) In the event that the marketplace innkeeper fails to remit the full amount of taxes levied or imposed by this article to Dawson County, the innkeeper shall be liable for the full amount of taxes levied or imposed by this article.

(Res. of 4-1-1991, § 2; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-365. Registration of business.

- (a) Every person engaging in, or about to engage in, business as an innkeeper of any establishment covered by section 30-362 shall immediately register said business with Dawson County, on a form provided by the county for such purpose. The required registration hereunder shall set forth the name under which the innkeeper transacts business or intends to transact business, the location of the place or places of business, and such other information as would facilitate the collection of the tax by the county. The registration shall be signed by the owner if a natural person; by a member or general partner in case of ownership by an association or partnership; or by an appropriate officer in the case of ownership by a corporation.
- (b) A separate registration shall be required for each place of business of an innkeeper.

(Res. of 4-1-1991, § 3; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-366. Certificate of authority.

Upon the registration of an innkeeper as hereinabove provided, Dawson County shall issue to such innkeeper without charge a certificate of authority to collect the tax on occupants. Each certificate shall state the name and location of the business to which it relates. Such certificate of authority shall also constitute a license by the county to operate such an establishment; provided, however, that such license shall not relieve the innkeeper from obtaining any other required licenses or permits.

(Res. of 4-1-1991, § 4; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-367. When due and payable.

All taxes levied by this section shall be due and payable to Dawson County monthly on or before the 20th day of every month next succeeding each respective month in which such taxes are collected, and payment shall be accompanied by a return for the preceding monthly period showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the period, and such other information as may be required by the county.

(Res. of 4-1-1991, § 5)

Sec. 30-368. Reimbursement.

Innkeepers collecting the tax levied hereunder shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction for submitting, reporting, and payment of the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the total amount of tax collected.

(Res. of 4-1-1991, § 6; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-369. Failure to file return.

- (a) If any innkeeper fails to file a return as required under the provisions of this section, the county shall make an estimate of the amount of gross rentals that are subject to the tax. The estimate shall be made for the period or periods in which the innkeeper failed to file the return and shall be based upon any information that is or may come into the possession of the county.
- (b) The board of commissioners or designated representative shall give to the innkeeper written notice of the determination as herein provided. The notice may be served personally or by mail; if by mail such service shall be addressed to the innkeeper at his/her/its address as it appears in the county's records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (c) The amount of the determination made hereunder shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof, from the 20th day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.
- (d) In addition, a penalty of five percent of the tax due or \$5.00, whichever is greater, for each 30 days or fraction thereof of delinquency, not to exceed 25 percent or \$25.00 in the aggregate, whichever is greater, shall be assessed and paid by the innkeeper to the county.
- (e) The estimated tax together with applicable penalties and interest may be collected utilizing any of the enforcement methods set forth in this section.

(Res. of 2-19-2009, § III; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-370. Records retention.

Each innkeeper collecting a tax under the provisions of this section shall keep for a period of at least three years all records, receipts, invoices, and other pertinent papers setting forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the county may require.

(Res. of 4-1-1991, § 8; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-371. Administration and enforcement.

The board of commissioners or designated representative shall administer and enforce the provisions of this section for the collection of the tax herein imposed, and in so doing shall have the following powers:

- (1) To examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any innkeeper subject to this article, in order to verify the accuracy of any return made, or if no return is made by the innkeeper, to ascertain and determine the amount required to be paid;
- (2) To require the filing of reports by any person or persons having in their possession or custody information relating to rentals which are subject to the tax herein levied; and
- (3) To allow a credit on any amount due and payable from persons who paid the tax herein levied but who were erroneously or illegally subjected thereto.

(Res. of 4-1-1991, § 9; Res. of 2-19-2009, § III; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-372. Court action for collection; time limit.

At any time within three years after any tax or any portion of such tax required to be collected becomes due and payable, the county attorney at the direction of the board of commissioners may bring an action in a court of competent jurisdiction in the name of the county to collect such amount due together with interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.

(Res. of 4-1-1991, § 10; Res. of 2-19-2009, § III)

Sec. 30-373. Sale of business; liability for unpaid taxes.

If any innkeeper becomes liable for any amount required to be paid by this article and subsequent thereto sells out or quits the business, the successors or assigns of such innkeeper shall withhold a sufficient amount of the purchase price to cover such amount due. In the event said purchaser of the business fails to withhold the required amount, he/she/it shall become personally liable therefor to the extent of the tax owed, together with any applicable penalties and interest.

(Res. of 4-1-1991, § 11; Ord. of 9-16-2021, § 1 (Exh. A))

Sec. 30-374. Violation of article provisions; penalty.

- (a) Any person who shall do anything prohibited by this article or who shall fail to do anything required by this article shall be guilty of a misdemeanor, amenable to the process of the Magistrate Court of Dawson County and upon conviction, shall be assessed with any penalty, including fine, confinement, or both, allowed by law for the violation of county resolutions or ordinances. Each and every day that such violation exists shall be deemed a separate offense.
- (b) In order to enforce this article or to correct or abate any violation of this article, the Board of Commissioners of Dawson County, in addition to other remedies, may institute injunction, mandamus, or other appropriate action.

(Res. of 4-1-1991, § 12; Res. of 2-19-2009, § III)

State law reference(s)—Penalties for ordinance violations, O.C.G.A. § 36-1-20.

Sec. 30-375. Other laws.

- (a) Any resolution or law which may be applicable hereto and aid in carrying out or making effective the intent, purpose, and provisions hereof, which shall be literally construed to be in favor of Dawson County is hereby adopted as a part hereof.
- (b) The effective date of this article shall be April 1, 1991.

(Res. of 4-1-1991, § 13; Res. of 2-19-2009, § III)

Secs. 30-376—30-393. Reserved.***ARTICLE IV. ADULT BUSINESS ESTABLISHMENTS***

Sec. 30-394. Purpose and intent.

The intent and purpose of this article is to regulate the place of operation of adult business establishments as defined herein. This article is intended to be a carefully tailored regulation to minimize the adverse impacts caused by the undesirable secondary effects of adult entertainment and adult media establishments. The Board of Commissioners of Dawson County finds that restricting adult business establishments and imposing development standards can legitimately regulate such establishments by delineating zones where adult business establishments are most compatible with other uses and the surrounding neighborhood. The board also finds that requiring minimum distances to be maintained between adult business establishment uses and other uses will afford the most protection to residential uses. The board does not intend to deny any person's right to free speech, conduct, or expression protected by the United States Constitution or the Georgia Constitution. The board intends to adopt a content neutral measure to address the undesirable secondary effects of adult business establishments.

(Ord. of 6-3-2004, § 1)

Sec. 30-395. Definitions.

Adult bookstore. see Explicit media outlet."

Adult business establishment is an inclusive term used to collectively describe adult bookstore, adult movie house, adult hotel or motel, adult mini-motion picture theater, adult arcade, adult service establishment, explicit media outlet, and sex shop.

Adult hotel or motel means a hotel or motel wherein material is presented that is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein.

Adult movie house means any movie theater that on a regular, continuing basis shows films rated "X" by the Motion Picture Coding Association of America or any movie theater that presents for public viewing on a regular, continuing basis so called "adult films" depicting sexual conduct.

Explicit media outlet means any commercial establishment that has an inventory of goods that is composed of at least 50 percent of books, pamphlets, magazines, or other printed publications, films, or other media that depict sexually explicit nudity or sexual conduct.

Sex shop means an establishment offering goods for sale or rent that meets any of the following tests:

(1) The establishment offers for sale any two of the following categories:

- a. Adult media;
- b. Lingerie; or
- c. Leather goods marketed or presented in a context to suggest the use of such good for masochistic practices;

and the combination of such items constitutes more than ten percent of the stock in trade or occupies more than ten percent of the floor area;

(2) More than five percent of the stock in trade consists of adult toys or novelties; or

(3) More than five percent of the floor area displays is devoted to the display of adult toys or novelties.

Sexual conduct means acts of masturbation, homosexuality, sodomy, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is female, breast that to the average person applying contemporary community standards taken as a whole lacks serious literary, artistic,

political, or scientific value and predominately appeals to the prurient interest, that is, a shameful or morbid interest in nudity or sex.

Sexually explicit nudity means the state of undress so as to expose the human male or female genitals or pubic area with less than a full opaque covering or the depiction of covered or uncovered male genitals in a discernibly turgid state that to the average person applying community standards taken as a whole lacks serious literary, artistic, political, or scientific value and predominately appeals to the prurient interest, that is, a shameful or morbid interest in nudity or sex.

Specified anatomical areas shall include the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, buttocks, or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall be defined to mean and include the following activities:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;
- (2) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (3) Fondling or other erotic touching of nude human genitals, pubic region, buttocks or female breast;
- (4) Masochism, erotic or sexually oriented torture, restraining, beating or the infliction of pain, clothed or unclothed; or
- (5) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being.

(Ord. of 6-3-2004, § 2)

Sec. 30-396. Adult business establishment license.

- (a) *License required.* It hereby declared to be unlawful for any person, association, partnership, or corporation to operate, engage in, conduct, or carry on, in or upon any premises within the unincorporated area of Dawson County an adult business establishment as defined herein without first procuring an annual license to do so. The issuance of such an annual license shall not be deemed to authorize, condone, or approve any activity thereunder if such activity is deemed illegal or unlawful under the laws of the State of Georgia or the United States. Any premises licensed as an adult business establishment shall not be eligible to apply at any time for a license to sell distilled spirits or malt beverages or wine for consumption on the premises. Each use must be the primary use of the establishment and licensed separately; therefore, no accessory adult uses shall be allowed.
- (b) *License fee.* There shall be an initial license fee for each adult business establishment in the amount established in section 18-30, which shall be due and payable to Dawson County, Georgia, upon the granting of an adult business establishment license. There shall also be an annual fee for each adult business establishment licensed within Dawson County in the amount of established in section 18-30. The annual fee must be paid to the county manager or his or her designated representative no later than November 30 of the year preceding the year for which the renewal is to be effective. No adult business establishment license or renewal thereof shall be issued until the most recent annual fee has been paid. All licenses granted in accord with the terms hereof shall expire on December 31 of each year. Licensees who desire to renew a license shall file an application with the county manager on the form provided for the renewal of the license

for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal application received after November 30 shall pay, in addition to the annual fee, a late charge of 20 percent. If a license renewal application is received after January 1, then such application shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been issued. If a license application is received after January 1, then investigative and administrative costs as set forth herein shall be assessed. All licenses granted in accord with terms hereof shall be for the calendar year, and the full annual fee must be paid for a license renewal application filed before July 1 of the license year. One-half of a full annual fee shall be paid for a license renewal application filed after July 1 of the license year. Any person renewing any license issued hereunder who pays the annual fee, or any portion thereof, after January 1, shall, in addition to the annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

- (c) *License nontransferable.* No adult business establishment license may be sold, transferred or assigned by any licensee, or by operation of law, to any other person, persons, or entity. Any such sale, transfer or assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such license, and such license shall thereafter be null and void; provided and excepting, however, that if the licensee is a partnership and one or more of the partners should die, then one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license; and in such case, the permit upon notification to the county, shall be placed in the name of the surviving partner. An adult business establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of the license or any stock authorized but not issued at the time of the granting of a license is thereafter issued and sold, transferred or assigned.
- (d) *Change in location or name.*
 - (1) No adult business establishment shall move from the location specified within the license until a change of location has been properly approved in accord with the terms hereof.
 - (2) No licensee shall operate, conduct, manage, engage in or carry on an adult business establishment under any name other than the name of the business as specified on the license.
 - (3) Any application for an extension or expansion of a building or other place of business where an adult business establishment is located shall require inspection and shall comply with the provisions and regulations of this article.

(Ord. of 6-3-2004, § 3)

Sec. 30-397. On-premises operator required.

An adult entertainment establishment shall have a designated person(s) to serve as an on-premises operator. The operator(s) shall be principally in charge of the establishment and shall be located on the premises during all operating hours.

(Ord. of 6-3-2004, § 4)

Sec. 30-398. Application process and qualifications.

- (a) *Process.* Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct, or carry on any adult business establishment in the unincorporated areas of the county shall make application to the county manager or to his or her designated representative. Such application shall be made on forms furnished by the county, shall be made in the name of the adult business establishment by an

applicant who is a natural person and an agent of the adult business establishment, and shall include the name(s) of the business operator(s) as defined herein and of the owner(s) as defined herein. If the adult business establishment is a corporation, then the agent, for purposes of making application for a license hereunder, shall be an officer of the corporation. If the adult business establishment is a partnership, then the agent for such purposes shall be a general partner. At the time of submitting such application, a nonrefundable investigative fee in the amount established in section 18-30 and a nonrefundable license application fee in the amount established in section 18-30 shall be paid to the county manager or to his or her designated representative to defray, in part, the cost of investigation and reporting as required by this article. The county manager or his or her designated representative shall issue a receipt showing that such application fee(s) have been paid. The application for license does not authorize the operation of, engaging in, conduct or carrying on of any adult business establishment.

- (b) *Contents.* Each application for an adult business establishment license shall contain the following information:
- (1) The full true name and any other names used by the applicant, the operator(s), and owner(s);
 - (2) The present address and telephone number of the applicant, the operator(s), and owner(s);
 - (3) The previous addresses of the applicant, the operator(s), and the owner(s), if any, for a period of five years immediately prior to the date of the application and the dates of residence at each;
 - (4) Acceptable written proof that the applicant, the operator(s), and the owner(s) are at least 18 years of age;
 - (5) The operator(s)' height, weight, color of eyes and hair and date and place of birth;
 - (6) Two photographs of the operator(s) at least two inches by two inches taken within the last six months;
 - (7) The business, occupation or employment history of the applicant, the operator(s), and owner(s) for the five years immediately preceding the date of application;
 - (8) The business license history of the adult business establishment seeking a license and whether such establishment has had a license or permit for an adult business or similar type of business revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of revocation or suspension;
 - (9) If the application is made on behalf of a corporation, then the name of the corporation, exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation. If the application is on behalf of a limited partnership, then a copy of the certificate of limited partnership filed with the county clerk shall be provided. If one or more of the partners is a corporation, then the provisions of this subsection pertaining to corporations shall apply;
 - (10) The names and addresses of the owner and lessor of the real property upon which the adult business establishment is to be operated, engaged in, conducted, or carried on, and a copy of the lease or rental agreement;
 - (11) With respect to the applicant, the operator(s), and the owner(s), all convictions, (excluding misdemeanor traffic violations unrelated to driving under the influence of drugs or alcohol) within the past five years, including a complete description of the crime or violation, the date of the crime or violation, date of conviction (including plea of guilty or nolo contendere), jurisdiction and any disposition, including any fine or sentence imposed and whether the terms of disposition have been fully completed. Each person required to disclose convictions hereunder shall also provide a signed and notarized consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of his or her criminal records to the county;
 - (12) A complete set of fingerprints of the applicant and the operator(s);

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- (13) If the person or business entity on whose behalf an application is made for a license is doing business under a trade name, then a copy of the trade name as properly recorded. If the application is made on behalf of a corporation, then a copy of its authority to do business in this state, including articles of incorporation, trade name affidavit, if any, and last annual report, if any;
 - (14) At least three character references for the applicant, the operator(s), and owner(s) from individuals who are in no way related to the applicant or any operator(s) or owner(s) and who are not or will not benefit financially in any way from the application if the license is granted. The county shall prepare forms consistent with the provisions of this subsection for the applicant, the operator(s), and owner(s), who shall submit all character references on such forms;
 - (15) The address of the premises where the adult business establishment will be operated, engaged in, conducted, or carried on;
 - (16) A plat by a registered engineer or a registered land surveyor, licensed by the state, showing the location of the proposed premises where the adult business establishment will be operated, engaged in, conducted or carried on in relation to the neighborhood, the surrounding zoning, its proximity in feet to any residence, area zoned residential, church, school, library, public park, public or semi-public playground, children's day care facility, establishment selling alcoholic beverages or malt beverages and wine, or other adult business establishment;
 - (17) Each application for an adult business establishment license shall be verified and acknowledged under oath to be true and correct by:
 - a. If application is made on behalf of an individual, then the individual;
 - b. If application is made on behalf of a partnership, then by a general partner;
 - c. If application is made on behalf of a corporation, then by the president of the corporation;
 - d. If application is made on behalf of any other organization or association, then by the chief administrative official.
- (c) *Appearance by applicant.* The applicant shall personally appear before the county manager or his or her designated representative and produce proof that a nonrefundable application fee, in an amount established by this article or by any subsequent resolution of the board of commissioners, has been paid and shall present the application containing the aforementioned and described information.
- (d) *Investigation; standards for granting of license.* The county shall have 30 days from the date of actual receipt of the application and investigatory fee to investigate the facts provided in the application and the background of the applicant, the operator(s), and owner(s). The county manager or his or her designated representative shall stamp the date of actual receipt of each application on the first page thereof, and notify the applicant of the actual receipt of the application within five business days of actual receipt of such application. The county manager or his or her designated representative shall approve or deny any application for an adult business establishment license within 30 days of actual receipt of such application. The application for an adult business establishment license shall be granted if the county manager or his or her designated representative finds:
- (1) The required investigative fee has been paid;
 - (2) The applicant has not made a material misrepresentation in the application;
 - (3) Neither the applicant, nor any of the operator(s) or owner(s) has been convicted or pled guilty or entered a plea of nolo contendere to any crime involving keeping a place of prostitution, pandering, pimping, public indecency, prostitution, sodomy, solicitation of sodomy, masturbation for hire, sexual battery, rape, child molestation, enticing a child for indecent purposes, or any offense included in the definition of a criminal offense against a victim who is a minor as defined in O.C.G.A. § 42-1-12(a)(4)(A)

and (B), within a period of five years prior to the date of the application. For purposes of this article, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which the applicant was allowed to avail himself of the Georgia First Offender Act (O.C.G.A. § 42-8-60 et seq.) unless the applicant is later adjudicated guilty of having violated the terms of his first offender treatment;

- (4) Neither the applicant, nor any of the operator(s) or owner(s) has had an adult business establishment license or other similar license or permit revoked for cause prior to the date of application within the preceding five years;
- (5) The building, structure, equipment and location of the premises of the adult business establishment as proposed by the applicant complies with all applicable laws, including but not limited to health, zoning, distance, fire and safety requirements and standards;
- (6) The applicant is at least 18 years of age;
- (7) On the date the business for which a license is required herein commences, and thereafter, there will be an operator(s) as defined herein on the premises at all times during which the business is open;
- (8) The proposed premises shall be located at least the minimum distances set forth in this article from any residential use, church, school, library, public park, public or semi-public playground, children's day care facility, establishment selling alcoholic beverages or malt beverages and wine, or other adult business establishment; and
- (9) The grant of such license shall not cause a violation of and shall not be in conflict with this article or any other law, ordinance or regulation, of Dawson County, the State of Georgia or the United States.

The county manager or his or her designated representative shall deny the application for an adult business establishment license if the application fails to meet any requirement contained in this article.

(Ord. of 6-3-2004, § 5)

Sec. 30-399. Regulation of adult bookstores and explicit media outlets.

- (a) *Application of section.* This section shall apply to adult bookstores as defined in this article.
- (b) *Location.* No adult business bookstore or explicit media outlet shall be located:
 - (1) Within 1,000 feet of any parcel of land that is either used or zoned for residential uses or purposes (residential area);
 - (2) Within 1,000 feet of any parcel of land on which a church, school, library, public park, public or semi-public playground, or children's day care is located;
 - (3) Within 1,000 feet of any parcel of land upon which any establishment authorized to sell alcoholic beverages or malt beverages and wine, either by the package or for consumption on the premises, is located;
 - (4) In any zoning district other than a CIR (Commercial Industrial Restricted);
 - (5) Within 500 feet of any parcel of land upon which another adult business establishment regulated or defined hereunder is located;
 - (6) Within the GA 400 Corridor Overlay District or any subsequent corridor protection overlay district;
 - (7) On any parcel of land less than one acre, or on any parcel of land containing less than 150 feet of road frontage.

For purposes of this section, the distance the measurement shall be from the closest property line on which the adult bookstore or explicit media outlet is located to the closest property line of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

- (c) *Hours of operation.* An adult bookstore may be open only between the hours of 9:00 a.m. and 12:00 midnight Monday through Saturday. No adult bookstore shall be open on Sunday or on Christmas Day.
- (d) *Display of licenses.* An adult entertainment establishment licensee shall conspicuously display the license required by this article.

(Ord. of 6-3-2004, § 6)

Sec. 30-400. Regulation of adult movie house.

- (a) *Application of section.* This section shall apply to adult movie houses.
- (b) *Location.* No adult movie house shall be located:
 - (1) Within 1,000 feet of any parcel of land that is either used or zoned for residential uses or purposes ("residential area");
 - (2) Within 1,000 feet of any parcel of land on which a church, school, library, public park, public or semi-public playground, or children's day care is located;
 - (3) Within 1,000 feet of any parcel of land upon which any establishment authorized to sell alcoholic beverages or malt beverages and wine, either by the package or for consumption on the premises, is located;
 - (4) In any zoning district other than a CIR (Commercial Industrial Restricted), or CHB (Commercial Highway);
 - (5) Within 500 feet of any parcel of land upon which another adult business establishment regulated or defined hereunder is located;
 - (6) Within the GA 400 Corridor Overlay District or any subsequent adopted corridor protection overlay district;
 - (7) On any parcel of land less than one acre, or on any parcel of land containing less than 150 feet of road frontage.

For purposes of this section, the distance the measurement shall be from the closest property line on which the adult bookstore or explicit media outlet is located to the closest property line of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

- (c) *Hours of operation.* An adult bookstore may be open only between the hours of 9:00 a.m. and 10:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and midnight on Saturday. No adult movie house shall be open on Sunday or on Christmas Day.
- (d) *Display of licenses.* An adult entertainment establishment licensee shall conspicuously display the license required by this article.

(Ord. of 6-3-2004, § 7)

Sec. 30-401. Regulation of sex shops.

- (a) *Application of section.* This section shall apply but is not limited to sex shops as defined in this article.
- (b) *Location.* No sex shop establishment shall be located:
 - (1) Within 1,000 feet of any parcel of land that is either used or zoned for residential uses or purposes ("residential area");
 - (2) Within 1,000 feet of any parcel of land on which a church, school, library, public park, public or semi-public playground, or children's day care is located;
 - (3) Within 1,000 feet of any parcel of land upon which any establishment authorized to sell alcoholic beverages or malt beverages and wine, either by the package or for consumption on the premises, is located;
 - (4) In any zoning district other than a CHB (Commercial Highway Business);
 - (5) Within 500 feet of any parcel of land upon which another adult business establishment regulated or defined hereunder is located;
 - (6) Within the GA 400 Corridor Overlay District or any subsequent adopted corridor protection overlay district;
 - (7) On any parcel of land less than one acre, or on any parcel of land containing less than 150 feet of road frontage.

For purposes of this section, the distance the measurement shall be from the closest property line on which the adult bookstore or explicit media outlet is located to the closest property line of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

- (c) *Hours of operation.* A sex shop may be open only between the hours of 9:00 a.m. and 10:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and 11:00 midnight on Saturday. No sex shop establishment shall be open on Sunday or on Christmas Day.
- (d) *Display of licenses.* A sex shop establishment licensee shall conspicuously display the license required by this article.
- (e) *Covering of windows and doors.* All sex shop toys, novelties, media or other stock in trade which are permitted by this article shall be carried on inside a closed building with all windows and doors covered or opaquely tinted so that the activities carried on inside cannot be viewed from the immediate areas surrounding the outside of the building.

(Ord. of 6-3-2004, § 8)

Sec. 30-402. Prohibited establishments and specific conduct or activities prohibited.

- (a) *Prohibited establishments.* The following establishments are specifically prohibited: adult contact facilities, adult hotel or motel, adult mini-motion picture theater, adult arcade, and adult service establishments.
- (b) *Advertising without license.* No person, partnership, corporation or other entity shall advertise or cause to be advertised an adult business establishment without a valid adult business establishment license issued pursuant to this article.

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- (c) *Employment of minors or unpermitted persons.* No adult business establishment licensee shall employ or contract with a person under the age of 18 years, or an adult entertainer who has not obtained a permit pursuant to this article.
 - (d) *Sale, consumption of alcohol.* No adult business establishment licensee shall serve, sell, distribute, or suffer the consumption or possession of any alcoholic beverages, malt beverages or wine or controlled substance upon the premises of the licensee.
 - (e) *Contact between patrons, employees.* No dancing or other performance by an adult entertainer or other employee at an adult business establishment shall occur closer than four feet to any patron. No patron, customer or guest shall be permitted to touch, caress or fondle any specified anatomical area of or any part of the body or clothing of any adult entertainer or other employee. No patron shall directly pay or give any gratuity to any adult entertainer or other employee. No adult entertainer or other employee shall solicit any pay or gratuity from any patron.
 - (f) *Engaging in specified sexual activities prohibited.* No adult entertainer, other employee, patron or other person at an adult business establishment shall be allowed to engage in any specified sexual activity, as defined herein, on the premises of any adult business establishment.
 - (g) *Public indecency prohibited.* No adult entertainer, other employee, patron or other person at an adult business establishment shall, while on the premises of an adult business establishment, commit the offense of public indecency as defined in O.C.G.A. § 16-6-8.

(Ord. of 6-3-2004, § 9)

Sec. 30-403. Adult business establishment employees.

- (a) *Qualifications.* Employees of an adult business establishment shall be not less than 18 years of age and shall not have been convicted of an offense described in section 30-398(d)(3) within the five years immediately preceding the proposed employment at or by an adult business establishment.
- (b) *Permit for employment.* Before any person may work at on premises licensed as an adult business establishment, such person shall file a notice with the county manager or his or her designated representative of the intended employment on forms supplied by the county manager or his or her designated representative and shall receive a permit for such employment from the county manager or his or her designated representative. The prospective employee shall supply a signed and notarized consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of his or her criminal records to the county manager or his or her designated representative. The prospective employee shall also provide a list of all of his or her convictions of offenses described in section 30-398(d)(3) (including pleas of nolo contendere) within the past five years. The county manager or his or her designated representative shall approve or deny the permit within 15 days of the application. If the prospective employee is found to meet the requirements of this subsection, then upon payment of the permit fee, the county manager or his or her designated representative shall issue a permit approving such employment within 48 hours. If such permit is not issued within 48 hours of such finding, the employee seeking the permit may commence work at the adult business establishment, which is the subject of the permit application, without such a permit. Upon receipt of a permit, the employee may begin working on the licensed premises. If approval is denied, the county manager or his or her designated representative shall provide the prospective employee the reasons for the denial and the prospective employee may, within ten days of said denial, appeal to the Dawson County Board of Commissioners, who shall uphold or reverse the decision within 30 days of such appeal. The annual permit fee shall be as established in section 18-30, and a nonrefundable investigation fee in the amount established in section 18-30 shall accompany the permit application to defray, in part, the cost of investigation and report required by this article.

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- (c) *Suspension or revocation of permit; procedure.* Violation by an adult business establishment employee of the provisions of this article and/or conviction of an offense described in section 30-398(d)(3) of this article shall subject an adult business establishment employee to suspension or revocation of the permit for employment. Whenever the county manager or his or her designated representative finds that reasonable grounds exist to suspend or revoke a permit for employment issued hereunder, the county manager or his or her designated representative shall schedule a hearing before the Dawson County board of Commissioners to consider such action, and shall notify the employee, at least 20 days prior to the hearing, of the time and place of the hearing and the proposed action and grounds therefor. The employee shall be entitled to present evidence and cross-examine witnesses with or without legal counsel. The Dawson County Board of Commissioners shall make its decision within ten days of the hearing and shall notify the employee promptly in writing. In the event that the decision to suspend or revoke an employment permit is upheld, an appeal cost in the amount established in section 18-30 shall be assessed against the appellant.

(Ord. of 6-3-2004, § 10)

Sec. 30-404. Penalty for violation.

Any person accused of violating any provision of this article shall be subject to the jurisdiction of the Magistrate Court of Dawson County and upon conviction shall be subject to a fine not to exceed \$1,000.00 per violation or by imprisonment for a period not to exceed 60 days, or both. Each day of operation in violation of this article shall be deemed a separate offense.

(Ord. of 6-3-2004, § 11)

State law reference(s)—Penalties for ordinance violations, O.C.G.A. § 36-1-20.

Sec. 30-405. Unlawful operation declared nuisance.

Any adult business establishment operated, conducted or maintained contrary to the provisions of this article shall be, and the same is hereby declared to be, unlawful and a public nuisance. The county may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action, proceeding for abatement, removal or enjoinder thereof in the manner provided by law.

(Ord. of 6-3-2004, § 12)

Sec. 30-406. Conditions of adult business establishment.

- (a) *Cleaning of licensed premises.* All adult business establishments shall be kept in a clean, sanitary condition, and shall be in full compliance with all applicable ordinances and regulations of the county and the state.
- (b) *Inspection of licensed premises.* The county manager or his or her designated representative, the county fire marshal, and the county sheriff shall have the authority to regularly inspect adult business establishments to determine compliance with and enforce all applicable fire, health and other codes of the county.
- (c) *Inspection for unsanitary or unsafe conditions.* The county manager or his or her designated representative and the county sheriff shall have the authority to periodically inspect adult business establishments to determine compliance with and enforce all provisions of this article and other applicable ordinances, regulations and laws.

(Ord. of 6-3-2004, § 13)

Sec. 30-407. Denial, suspension or revocation of license; hearing.

Grounds.

- (1) A license may be denied to persons or entities that have submitted an incomplete application or that have failed to satisfy any of the requirements of this article.
- (2) Any of the following shall be grounds for suspension or revocation of a license:
 - a. Making any material statement on an application for a license issued hereunder that is false;
 - b. Violation of any of the regulations or prohibitions of this article;
 - c. With respect to the applicant, operator(s) and owner(s), conviction of or a plea of guilty or nolo contendere regarding any of the crimes that would make such person or adult entertainment establishment ineligible to hold a license under section 30-398(d)(3).
- (3) Denial; procedure. Within 30 days of actual receipt of an application for an adult business establishment license, the county manager or his or her designated representative shall either approve or deny the application. In no event shall the county manager or his or her designated representative's decision be withheld for more than 45 days after actual receipt of the application. In the event that such an application is held without decision for a period of more than 45 days, however, the license application shall be deemed approved. The county manager or his or her designated representative shall issue an adult business establishment license to an applicant who informs the county manager or his or her designated representative of the fact that an application has been submitted, but no decision has been made thereon for a period of more than 45 days following actual receipt of the application. In the event that the county manager or his or her designated representative denies an application for an adult business establishment license, notice of such denial shall be delivered to the applicant in person or by certified mail within five business days of such denial.
- (4) Suspension or revocation; procedure. Whenever the county manager or his or her designated representative finds reasonable grounds to suspend or revoke a license issued hereunder, the county manager or his or her designated representative shall schedule a hearing before the Dawson County Board of Commissioners to consider such suspension or revocation and shall, at least 20 days prior to the hearing, notify the licensee of the time and date of the hearing and the proposed action and the grounds therefor. The licensee shall be entitled to present evidence and cross-examine any witnesses at the hearing, with or without legal counsel. The Dawson County Board of Commissioners shall make its decision within ten days of the hearing and shall notify the licensee in writing within five business days of the decision.

(Ord. of 6-3-2004, § 14)

Sec. 30-408. Miscellaneous.

Nothing contained in this article shall be deemed to permit or condone any activity whatsoever, which is otherwise found to be obscene, lewd, or illegal under applicable code, regulation, or statute. Further, the activities and uses which are regulated and permitted by this article shall only be allowed if such activities are not obscene or lewd and not in violation of any other such prohibitions on nudity or sexual activity.

(Ord. of 6-3-2004, § 15)

Sec. 30-409. Automatic license forfeiture for nonuse.

Any holder of any license hereunder who shall for a period of three consecutive months after the license has been issued, cease to operate the business or the sale of the product or products authorized shall after the said three-month period automatically forfeit the license without the necessity of any further action.

(Ord. of 6-3-2004, § 17)